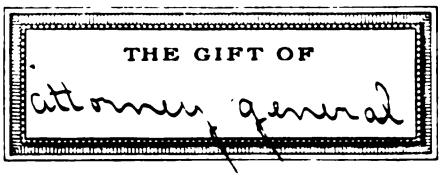

ANNUAL REPORT

OF THE

ATTORNEY GENERAL

OF THE

STATE OF MICHIGAN

FOR THE

FISCAL YEAR ENDING JUNE 30, A. D. 1907

JOHN E. BIRD
ATTORNEY GENERAL

BY AUTHORITY

LANSING, MICHIGAN
WYNKOOP HALLENBECK CRAWFORD CO., STATE PRINTERS
1908

ATTORNEYS GENERAL OF THE STATE OF MICHIGAN SINCE 1836.

APPOINTED.

DANIEL LE ROY	July 18, 1836-1837
PETER MOREY	March 21, 1837-1841
ZEPHANIAH PLATT	March 4, 1841-1843
ELON FARNSWORTH	March 9, 1843-1845
HENRY N. WALKER	March 24, 1845-1847
EDWARD MUNDY	March 12, 1847-1848
GEORGE V. N. LOTHROP	April 3, 1848-1850

ELECTED.

WILLIAM HALE	1851-1854
JACOB M. HOWARD	1855-1860
CHARLES UPSON	1861-1864
ALBERT WILLIAMS	1865-1866
WILLIAM L. STOUGHTON	1867-1868
DWIGHT MAY	1869-1872
BYRON D. BALL (a)	1873-1874
ISAAC MARSTON	April 1, 1874-1874
ANDREW J. SMITH	1875-1876
OTTO KIRCHNER	1877-1880
JACOB J. VAN RIPER	1881-1884
MOSES TAGGART	1885-1888
STEPHEN V. R. TROWBRIDGE (b)	1889-1890
BENJAMIN W. HUSTON	March 25, 1890-1890
ADOLPHUS A. ELLIS	1891-1894
FRED A. MAYNARD	1895-1898
HORACE M. OREN	1899-1902
CHARLES A. BLAIR	1903-1904
JOHN E. BIRD	1905-1907

(a) Resigned April 1, 1874. Isaac Marston appointed to fill vacancy.
(b) Resigned March 25, 1890. Benjamin W. Huston appointed to fill vacancy.

ATTORNEY GENERAL'S OFFICE.

JOHN E. BIRD, Attorney General.

[1]CHARLES W. McGILL, Deputy Attorney General.

HENRY E. CHASE, Deputy Attorney General.

ASSISTANTS.

[2]CHARLES W. McGILL.

GEOKGE S. LAW.

[3]THOMAS A. LAWLER.

ARTHUR P. HICKS.

J. SHURLY KENNARY.

CLERKS.

FRED H. HADRICH.

HENRY G. CASSEY.

STENOGRAPHERS.

MONICA B. THOMPSON.

[4]G. D. McINTYRE.

[5]MAUDE E. BENSON.

[1] Succeeded by Henry E. Chase, February 16, 1907.
[2] From February 16, 1907.
[3] Succeeded George S. Law as chief law clerk, December 1, 1906.
[4] From February 25, 1907.
[5] From January 16, 1907.

ANNUAL REPORT, 1907.

STATE OF MICHIGAN,
Attorney General's Office,
Lansing, July 1, 1907.

To the Legislature of the State of Michigan:

In compliance with the law, I have the honor herewith to present the annual report of the business of this department for the fiscal year ending June 30, 1907, including official opinions and an abstract of the official reports of the prosecuting attorneys of the counties of the State, showing the number of prosecutions, convictions, acquittals, etc.

Three indexes are included: one a "Table of Cases" one an "Index of Names of Opinions" and the third a "General Index to Report, Subjects of Opinions, etc."

The various matters contained in this report are arranged as Schedules "A" to "R", inclusive and classified as follows:—

SCHEDULE A.—Statement of criminal and habeas corpus cases and certiorari to review habeas corpus cases.

SCHEDULE B.—Statement of mandamus and certiorari to review mandamus cases.

SCHEDULE C.—Statement of quo warranto proceedings and certiorari to review quo warranto proceedings.

SCHEDULE D.—Statement of chancery cases in state courts and cases in equity in United States courts.

SCHEDULE E.—Statement as to proceedings for the collection of estates which have escheated to the state.

SCHEDULE F.—Statement of inheritance tax proceedings: (a) Statement of moneys paid, and (b) Statement of proceedings in the various courts and of those arranged by correspondence and (c) cases in which tax has been finally determined *but not* paid or *only partially* paid, showing amounts due.

SCHEDULE G.—Statement of insane cases, containing: (a) statement of money collected and paid to the state, through efforts of attorney general, with the co-operation of medical superintendents of various

asylums and judges of probate, as reimbursement to the state for the support of certain insane persons at state asylums, (b) statement of proceedings for reimbursement, (c) statement of proceedings for deportation and importation of insane persons.

SCHEDULE H.—Statement of assumpsit cases, disbarment proceedings, ejectment, replevin, miscellaneous cases and appraisal of telegraph and telephone properties of the state.

SCHEDULE I.—Statement of amounts received as costs of suits, etc.

SCHEDULE J.—List of insurance companies whose articles of association, amendments to articles of association, etc., have been approved, and a statement of the amount of money received as approval fees.

SCHEDULE K.—Summary-statement of all amounts collected and paid to the state through the efforts of the attorney general, also including the sum received as fees for approving articles of association, etc., of insurance companies, for the fiscal year ending June 30, 1907.

SCHEDULE L.—Official opinions of the attorney general.

SCHEDULE M.—Abstract of the semi-annual reports of the prosecuting attorneys of the official business of the various counties, for the fiscal year ending June 30, 1907, and

SCHEDULE N.—Recapitulation of the semi-annual reports of the prosecuting attorneys of the official business of their respective counties, during the fiscal year ending June 30, 1907.

SCHEDULE O.—List of prosecuting attorneys, by counties, with name of county seat and address of prosecutor.

SCHEDULE P.—Table of cases.

SCHEDULE Q.—Index of names of opinions.

SCHEDULE R.—General index to report, subjects of opinions, etc.

Respectfully submitted,

JNO. E. BIRD,
Attorney General.

FHHh.

SCHEDULE "A."

Statement of criminal and habeas corpus cases and certiorari to review habeas corpus cases.

CRIMINAL CASES DISPOSED OF.

SUPREME COURT.

People v. George W. Parker. Error to recorder's court of Detroit. Manslaughter. Reversed and defendant ordered discharged. Sept. 20, 1906. (108 N. W. 999; 145 Mich. 488.)

People v. George Tubbs. Error to Eaton circuit court. Murder in first degree and sentenced to state prison at Jackson for life. Affirmed, January 4, 1907. (110 N. W. 132; 147 Mich. 1.)

People v. John H. Farrell. Error to Missaukee circuit. Murder, first degree. "It appearing that respondent had formerly been convicted of manslaughter upon the same information, the judgment is reversed and remanded with directions to sentence respondent for manslaughter." Sentence set aside and new trial ordered. (109 N. W. 440; 146 Mich. 265.) Motion for rehearing submitted, February 16, and denied March 6, 1907.

People v. Joseph Fisher. Error to Calhoun circuit. Forgery. Affirmed as to minimum sentence. (108 N. W. 280; 144 Mich. 570.)

People v. Andrew Smith and Joseph Hammerschmidt. Exceptions from Muskegon circuit. Violation of liquor law. Affirmed, September 20, 1906. (108 N. W. 1072; 145 Mich. 530.)

People v. Sidney Long. Error to Oceana circuit. Rape. Reversed and a new trial ordered, July 3, 1906. (108 N. W. 91; 144 Mich. 585.)

People v. James Wright. Exceptions from St. Clair circuit. Assault with intent to do great bodily harm less than the crime of murder. Conviction set aside and new trial ordered, July 3, 1906. (108 N. W. 92; 144 Mich. 586.)

People v. Louis Haxer. Error to recorder's court of Detroit. Assault with intent to kill and sentenced to imprisonment for life in the state prison at Jackson. Affirmed, July 3, 1906. (108 N. W. 90; 144 Mich. 575.)

People v. Arthur Murphy. Error to Muskegon circuit. Assault with intent to commit rape. Affirmed, September 20, 1906. (108 N. W. 1009; 145 Mich. 524.)

People v. John W. Bronner and Jacob Herold. Error to Cass circuit. Selling liquors to a minor. Affirmed as to defendant Bronner and reversed as to respondent Herold, July 23, 1906. (108 N. W. 672; 145 Mich. 399.)

People v. Gilbert Ritchie. Exceptions from Houghton circuit. Embezzlement under Sec. 11572, C. L. 1897. Reversed and new trial ordered, July 24, 1906. (108 N. W. 747; 145 Mich. 440.)

People v. William Peck. Exceptions from Muskegon circuit. In 1905, defendant had his case in the supreme court on exceptions after conviction of embezzlement and April 21, 1905, a new trial was ordered (103 N. W. 178; 139 Mich. 680) (No. 20,530), and upon his second trial he was convicted of larceny. Affirmed, February 5, 1907. (No. 21,559) (110 N. W. 495; 147 Mich. 84.)

People v. Floyd S. Harper. Error to recorder's court of Detroit. Murder in the first degree. Conviction set aside and new trial ordered, July 23, 1906. (108 N. W. 689; 145 Mich. 402.)

People v. Bert Lambert. Error to Eaton circuit. Convicted of rape and sentenced to the state prison at Jackson, for life. Affirmed, July 3, 1906. (108 N. W. 345; 144 Mich. 578.)

People v. Linus D. and Lorinda Maxfield. Exceptions from Genesee circuit. Keeping house of ill-fame. Conviction set aside and new trial granted, October 1, 1906. (108 N. W. 1087; 146 Mich. 103.)

People v. Hume H. West. Error to recorder's court of Detroit. Embezzlement. Affirmed, December 3, 1906. (109 N. W. 1041; 146 Mich. 537.)

People v. Isaac J. Smith. Exceptions from Ionia circuit. Violation of a city ordinance as to peddling. Proceedings dismissed and court below advised to proceed to judgment, October 29, 1906. (109 N. W. 411; 146 Mich. 193.) Again brought to supreme court (on error). Affirmed, March 5, 1907. (110 N. W. 1102; 147 Mich. 391).

People v. Walter W. Thorne. Error to recorder's court of Detroit. Larceny under Sec. 11570, C. L. 1897. Affirmed, April 30, 1907. (111 N. W. 741; 148 Mich. 203.)

People v. Wiley H. Tollefson. Error to Ottawa circuit. Forgery. Affirmed, July 24, 1906. (108 N. W. 751; 145 Mich. 444.)

People v. Cora Journeau (Mrs. Joseph Journeau). Error to Wexford circuit. Violation of liquor law. Conviction set aside, the record

remanded and a new trial ordered, March 12, 1907. (111 N. W. 95; 147 Mich. 520.)

People v. Clarence L. Messer. Exceptions from Sanilac circuit. Embezzlement. Reversed and new trial granted, April 30, 1907. (111 N. W. 854; 148 Mich. 168.)

People v. Wm. A. Ryno. Error to recorder's court of Detroit. Assault with intent to commit the crime of rape. Reversed and new trial ordered, April 30, 1907. (111 N. W. 740; 148 Mich. 137.)

People v. Floyd DeCamp. Error to Muskegon circuit. Larceny. Affirmed, December 3, 1906. (109 N. W. 1047; 146 Mich. 533.)

People v. Fred Cook. Error to Ionia circuit. Assault with intent to murder. Affirmed, February 5, 1907. (110 N. W. 514; 147 Mich. 127.)

People v. John F. Thompson. Error to Van Buren circuit. Violation of local option law. Heard October 18, 1906; re-argued February 19, 1907. Reversed and new trial granted. (111 N. W. 96; 147 Mich. 444.)

People v. Otto Prinz. Error to the recorder's court of Detroit. Rape Affirmed, April 30, 1907. (111 N. W. 739; 148 Mich. 307.)

People v. Bert Rivers. Error to Oakland circuit. Taking indecent liberties with the person of a female child under the age of 14 years without the intent to commit the crime of rape. Reversed and prisoner discharged. (111 N. W. 201; 147 Mich. 643.)

People v. Stephen Cahill. Error to recorder's court of Detroit. Larceny from the person. Reversed and new trial ordered, February 5, 1907. (110 N. W. 520; 147 Mich. 201.)

People v. John Tolman. Error to Kalkaska circuit. Keeping saloon open on Sunday. Affirmed, April 30, 1907. (111 N. W. 772; 148 Mich. 305.)

CIRCUIT COURT.

People v. Frank Christian. Alcona circuit. This is a prosecution for criminal trespass on state lands and grew out of the case shown at p. 10, report 1906, 144 Mich. 247). September 13, 1906.—Defendant changed plea to guilty and was sentenced to imprisonment for six months or fine of one hundred dollars; fine paid and defendant discharged in open court.

HABEAS CORPUS CASES, DISPOSED OF.

SUPREME COURT.

In re Daniel J. Trombley (No. 21,346) see page 50, report of 1906.

In re Edward Ball, supreme court (No. 21,942), petition for writ of habeas corpus for release from the state prison, at Jackson. Petitioner was arraigned in the Berrien circuit court in the December, 1903, term upon the charge of "breaking and entering a store in the day-time with intent to commit the crime of larceny therein." The trial resulted in a verdict of "guilty." The record of the verdict of the jury recites "that the said Edward Ball is guilty of burglary in manner and form as the said people have in their information in this cause charged." March 8, 1904, he was sentenced by the circuit judge to be confined in the state prison at hard labor for the maximum period of five years and the minimum period of three years. The copy of the record of sentence filed with the warden recites that petitioner had, by the verdict of the jury, been duly convicted of the crime of "burglary." He asked for release, alleging that his detention is illegal for the reason that the information charged him with the "crime of breaking and entering a store in the daytime with intent to commit the crime of larceny therein, while the judgment recites a conviction of burglarly, an offense not charged in the information." Submitted on briefs, October 16, Writ dismissed October 19, 1906. (No opinion.)

In re George Downs, supreme court (No. 21,966), petition for release from the state prison, at Jackson. Questions raised as to "Maximum term, indeterminate sentence law." Submitted November 13, 1906. Petitioner remanded, March 12, 1907. (111 N. W. 81; 147 Mich. 477.)

In re George B. Fox, supreme court (No. 22,000), petition of John C. Fox for writ of habeas corpus for release of Geo. B. Fox from the Michigan reformatory, at Ionia. Question raised as to the powers of the deputy warden of the prison, to issue a warrant for return of prisoner to prison on violation of parole. Submitted December 4, 1906. Writ dismissed, February 5, 1907 (110 N. W. 517; 147 Mich. 189).

In re Henry Kenney, supreme court (No. 22,144). Habeas corpus proceedings to obtain release from imprisonment in the jail of Ionia county. There was an order denying the writ, and petitioner brings certiorari. Submitted March 5, and affirmed March 26, 1907. (111 N. W. 189; 147 Mich. 678.)

In re Abraham Manaca, supreme court (No. 21,924). *Certiorari* to Ionia circuit, Hon. F. D. M. Davis circuit judge. Habeas corpus proceedings to obtain release from the Michigan Reformatory at Ionia. There was an order denying the petition and petitioner brings certiorari. Submitted October 16, and affirmed December 21, 1906. (110 N. W. 75; 146 Mich. 697.)

(Five other cases in Ionia circuit also depended on this decision and follow in this schedule.)

HABEAS CORPUS CASES DISPOSED OF.

CIRCUIT COURTS.

In re Abraham Manaca.
In re Frank Bowers.
In re James Porter.
In re Wm. J. Remus.
In re George Williams.
In re James H. Sinclair.
Ionia circuit. Order made, remanding all of the six petitioners to custody of the warden of the Michigan reformatory at Ionia and opinion filed, July 24, 1906. All of these cases to be governed by decision in re Manaca, supreme court, (argued and submitted October 16, 1906; writ dismissed and petitioner remanded December 21, 1906. 110 N. W. 75; 146 Mich. 697.)

In re Milton M. Spear, Jackson circuit. Application for habeas corpus for release from Michigan State Prison, at Jackson. Spear was convicted in the recorder's court at Detroit of the crime of uttering and publishing a false, forged and counterfeited instrument, and upon April 28th, 1906, was sentenced to the Michigan State Prison at Jackson for an indeterminate period of not less than two years and not more than fourteen years. Sentence was imposed under the indeterminate sentence law of 1903, which became operative in September of that year. The crime of which Spear was convicted was committed March 15, 1902. Claiming that the sentence was wholly void because it was imposed under the indeterminate sentence law, which was not in force at the time the crime was committed, he sought to secure his discharge from prison through habeas corpus proceedings in the Jackson circuit court. It was contended by the attorney general that while the law in force at the time the crime was committed did not authorize the imposition of an indeterminate sentence, the sentence was, under People v. Cummings (88 Mich. 249) and in re Lambrecht (137 Mich. 450), valid as a definite sentence for the minimum term of three years. Return filed June 16, 1906, and petitioner remanded to prison to await decision. Final "Order remanding to custody of warden, entered July 2, 1906, no written opinion filed," by the circuit judge.

In re petition of John I. Carpenter for a writ of habeas corpus for Celon Bennett. Ingham circuit. Heard June 20, 1906. Writ dismissed and boy remanded to custody of superintendent of Industrial School for Boys, September 22, 1906. (See 1906 report 11 for statement of the case.)

In re petition of Anton Schnapka for writ of habeas corpus for re-

lease of Katie Schnapka from the Michigan Asylum for the Insane, Kalamazoo, Michigan. Kalamazoo circuit. Argued and submitted April 26, and opinion filed May 1. Order entered May 2, 1907, remanding Katie Schnapka to asylum. (Removed to supreme court by certiorari.)

CRIMINAL CASES PENDING.

SUPREME COURT.

People v. Carroll Beardsley. Error to Oakland circuit. Submitted April 18, 1907.

People v. Frank Gebhard, Exceptions from Cass circuit.

People v. Leo Brock. Error to Oakland circuit, submitted June 13, 1907.

People v. Fred W. Henze. Exceptions from superior court of Grand Rapids, submitted June 13, 1907.

People v. Volney Sanford, exceptions from Mason circuit, submitted June 13, 1907.

People v. James B. Mix. Exceptions from Barry, submitted June 13, 1907.

People v. Thomas L. Chamblin. Certiorari to Barry circuit, submitted June 13, 1907.

People v. John Blake. Error to Jackson circuit.

People v. Roe T. Ryder. Error to Van Buren circuit.

People v. Moulton Coulon. Exceptions from Barry.

HABEAS CORPUS CASES PENDING.

SUPREME COURT.

In re Charles E. Blashfield. Supreme court. No. 21,860. Application for certiorari to review "matter of the discharge of Charles E. Blashfield in habeas corpus proceedings," filed August 13, 1906, and writ issued on the same day.

Ex parte Katie Schnapka. Supreme court (No. 22,299). Certiorari to Kalamazoo circuit, to review proceedings re petition of Anton Schnapka for release of Katie Schnapka, from Michigan Asylum for Insane. Submitted June 3, 1907.

SCHEDULE "B."

Statement of mandamus and certiorari to review mandamus cases.

MANDAMUS CASES DISPOSED OF.

SUPREME COURT.

Wm. C. Weber v. Perry F. Powers, Auditor General (No. 20,552). Petition for mandamus was filed and order to show cause issued in May, 1904. The relator desired to compel the auditor general "to cancel the deed (mentioned in the petition aforesaid) executed by him to said relator" conveying certain lands in township 48, N. R. 27 W. and township 50 N. R. 28 W. "for the taxes assessed thereon in the years 1895, 1896, 1897 and 1898, and to issue therefor a new deed, dated since the expiration of the period of redemption from said sale, conveying to said relator said lands for the years 1895 to 1898, both inclusive." In view of the rehearing pending in Monaghan v. Auditor General (136 Mich. 247) there was no hearing in this case and after the rehearing was denied the auditor general (in February, 1905,) issued the new deed as prayed by relator Weber and nothing further has been done in this case.

John McRae v. James B. Bradley, Auditor General. Mandamus to compel the auditor general to refund certain taxes paid as a condition of purchase of a state bid. Writ denied, December 17, 1906. (109 N. W. 1122; 146 Mich. 594.) Bill of costs filed by attorney general December 19, but the court determined that costs should not be allowed.

Frank E. Robson v. Wm. H. Rose, Commissioner of the State Land Office. (No. 21,427.) Mandamus to compel the land commissioner to issue a patent for certain swamp lands. Argued and submitted, February 15, and re-argued (by order of the court), December 4, 1906. Writ granted, April 30, 1907. (Dissenting opinion by Justice Blair, concurred in by Chief Justice McAlvay.) (111 N. W. 906; 148 Mich. 12.)

Arthur Wilkinson v. James B. Bradley, Auditor General (No. 21,531). Mandamus to compel the auditor general to refund the amount paid on an invalid tax sale. Submitted February 27, 1906. Writ denied (without costs), January 4, 1907. (110 N. W. 123; 147 Mich. 13.)

Stephen D. Williams v. George A. Prescott, Secretary of State. (No.

21,777.) Mandamus to compel giving of notices of election of state senators under act 264, P. A. 1895. Submitted June 11. Writ granted July 24, 1906. (No costs allowed.) (108 N. W. 749; 145 Mich. 447.)

Nathan Judson v. James B. Bradley, Auditor General. (No. 21,925.) Application for mandamus to compel the auditor general to allow "relator to purchase and pay taxes for the years 1882 to 1899, inclusive, on the west half of the N. E. of the S. E. quarter of Sec. 21, T. 8 N. range 16, west, in the city of Grand Haven." Order to show cause issued September 21. Discontinued (without costs) by stipulation filed, October 16, 1906.

Robert Smith Printing Company v. Board of State Auditors. (No. 21,959). Mandamus to compel the allowance of certain bills. Submitted May 18, 1907, writ denied June 3, 1907, without costs. (112 N. W. 130; 143 Mich. 561.) It was held that "Under a contract to do the binding, etc., that may be 'ordered' by the several departments of the state government for the term of two years, the contractor is obliged to do, at the contract price all the work *ordered* during the contract period, though the work is not performed, nor the material delivered, until after the expiration of the contract period." (561.)
(See memo. of Sept. 9, 1906, in Schedule "L.")

Zachariah Hayward v. James B. Bradley, Auditor General. (No. 21,938.) Mandamus to compel cancellation of a tax deed. Submitted November 7, 1906, writ granted March 26, 1907. (111 N. W. 190; 147 Mich. 591.)

John E. Bird, Attorney General, ex rel. Michigan Lubricator Company v. James V. Barry, Commissioner of Insurance. (No. 22,200.) Mandamus to compel revocation of the license of an insurance company, the Concordia Fire-Insurance Company. Submitted April 8, 1907, and relator held entitled to writ, June 3, 1907. (112 N. W. 132; 148 Mich. 56.)

Murphy Chair Company, Pioneer Manufacturing Company and William Campbell v. John E. Bird, Attorney General. (Martin Manthey, Illinois Broom Co. and Ypsilanti Reed Furniture Co., Intervenors.) (No. 22,294½.) Application for mandamus to compel attorney general to file an information in equity to test the validity of a certain contract between the state house of correction, etc., at Ionia, and the Ypsilanti Reed Furniture Company, which relators claim to be in violation of Sec. 3, of Art. 18, of the constitution. The request was refused, in view of the fact that this section was stricken from the constitution by the amendment submitted to the electors April 1, 1907. The relators claimed that the amendment was not legally submitted or adopted. Submitted May 18. The order to show cause was denied May 20, 1907. (112 N. W. 127; 148 Mich. 563.)

H. Clair Jackson, Prosecuting Attorney, Kalamazoo County v. Lynn B. Mason, Judge Recorder's Court, Certiorari to Kalamazoo circuit. Supreme court, No. 21,674. Mandamus to compel respondent to issue

a warrant for the violation of act 200, P. A. 1905. There was an order denying the writ and relator brought certiorari. Submitted, May 1, and affirmed, July 23, 1906. 108 N. W. 697; 145 Mich. 338. (In re "Juvenile Court Law.")

John E. Bird, Attorney General, ex rel., Charles S. Beadle, relator and appellant v. John F. Arnott, City Assessor and the Board of Review of the City of Sault Ste. Marie. Certiorari to Chippewa circuit. Supreme court, No. 21,772. Mandamus to compel the city assessor and the board of review to place certain property of the Michigan Lake Superior Power Company upon the tax roll and assess it upon the same basis as other property. There was an order denying the writ and relator brings certiorari. Submitted, June 26, and affirmed, July 23, 1906. (108 N. W. 646; 145 Mich. 416.)

Ella Perry (plaintiff in certiorari) v. Auditor General (defendant in certiorari). No. 21,872. Certiorari to auditor general, to review "matter of issuing a certificate of error under date of April 4, 1906, against sale of lands for taxes * * *, " in the village of Delray, Wayne county. Writ allowed, Aug. 6, 1906. Dickinson, Stevenson, Cullen, Warren & Butzel, appeared as attorneys for defendant in certiorari. Stipulation of discontinuance filed January 8, 1907.

MANDAMUS CASES PENDING.

SUPREME COURT.

Schuyler S. Olds v. William A. French, Commissioner of the State Land Office. The Michigan Land and Lumber Company, intervenor. Petition for mandamus to compel the Commissioner of the State Land Office to permit the location of certain lands on the "St. Clair Flats" so-called, with certain scrip. Writ granted July 10, 1901. (134 Mich. 442.) Rehearing granted October 15, 1901. Submitted on re-hearing June 9, 1903, and former decision affirmed September 22, 1903. (134 Mich. 450.) This decision established the validity of the scrip held by the relator, but left to be determined the issue as to whether the land in controversy is swamp or over-flowed land or submerged land forming a part of the bed of Lake St. Clair. Special commissioner appointed to take testimony on issue left to be determined. Record of testimony taken before special commissioner, filed with supreme court, September 27, 1905. Argued and submitted, May 25, 1906.

Michigan Land and Lumber Company, Limited, v. The Commissioner of the State Land Office. (No. 19,882.) Submitted May 25, 1906, with Olds v. same respondent. (Supra.)

The State of Michigan v. George S. Hosmer, and Morse Rohnert, Judges of the Circuit Court for the County of Wayne. (No. 20,823.)

Argued and submitted June 3, 1905. Writ denied September 20, 1905. (12 D. L. N. 493; 104 N. W. 637.) Re-hearing granted October 31, 1905. Re-hearing pending. (This case is in re M. C. R. R. Co. v. State of Mich. charter case, Wayne circuit.)

The Regents of the University of Michigan v. James B. Bradley, Auditor General. No. 21,703.

New York Mortgage Company v. The Secretary of State. (No. 22,059.) Submitted on briefs, March 5, 1907.

Ada H. O'Connor (plaintiff in certiorari) v. James B. Bradley, Auditor General. Supreme court, No. 22,214. Certiorari to auditor general.

MANDAMUS CASES PENDING.

CIRCUIT COURT.

Chase S. Osborn, Commissioner of Railroads v. The Detroit, Grand Haven & Milwaukee Railway Co. Wayne circuit court. Argued and submitted, Nov. 29, 30, and Dec. 1, 1904.

Charles A. Blair, Attorney General, ex rel., Bernard Zmigswaski et al. v. The Council of the Village of Glenwood, et al. Wayne circuit court.

SCHEDULE "C."

Statement of quo warranto cases, and certiorari to review quo warranto cases.

QUO WARRANTO CASES DISPOSED OF.

SUPREME COURT.

Charles A. Blair, Attorney General, ex rel. Salem B. Bentley, v. James A. Muir. (No. 20,475.) Application for quo warranto, to inquire by what warrant respondent held the office of director of the Walker Manufacturing Co., a Michigan corporation, of Fenton, Michigan, "as against the rights of said principal Salem B. Bentley." Motion to dismiss and to settle issues, submitted June 7, 1904. Motion to dismiss denied (with costs), and motion to settle issues granted June 7, 1904. Files sent to Genesee circuit for trial of issues, June 23, 1904, but the case was settled between the parties in 1905, we were advised in 1907 by attorney for relator and upon our suggestion a formal stipulation of discontinuance was filed in the supreme court, June 14, 1907.

Attorney General, ex rel. Wolverine Fish Company, Limited, v. A. Booth & Company. (No. 20,897.) Application for quo warranto, to oust respondent "from the franchise of doing business in this state under the anti-trust acts of 1889 and 1899" and to determine the legality of respondent's incorporation. Information filed December 29, 1904. Motion to dismiss argued and submitted October 3, 1905. Motion denied (with costs), March 5, 1906. (106 N. W. 868; 143 Mich. 89.) Notice of motion to remand issues to Wayne circuit for trial filed in August, 1906, but stipulation of discontinuance (without costs) was filed in the supreme court, October 2, 1906, by attorney for relator.

John E. Bird, Attorney General, ex rel. Wm. Alexander v. Eugene T. McClear. (No. 21,666.) Quo warranto to determine right of respondent to hold office of drain commissioner of Livingston county, relator Alexander claiming the office by virtue of appointment made by the governor under L. A. 592, of 1905. There was judgment for respondent and relator brings error. Argued and submitted, June 7, 1906, reversed and judgment of ouster entered October 1, 1906. (109 N. W. 27; 146 Mich. 45.)

John E. Bird, Attorney General, v. Nathan M. Kaufman, Samuel R. Kaufman and Carl H. Blomstrom. (No. 21,842.) Application for quo warranto to determine the right of respondents to do business as the C. H. Blomstrom Motor Company. Information filed by request

of attorneys for Carl H. Blomstrom, July 28, 1906, but upon consideration of the pleadings filed, the attorney general filed motion to dismiss the information, October 11, alleging:

"(1) Because, since lending my name as attorney general in said suit, a full hearing has been had with all interested parties present, and, from the facts disclosed, I am of the opinion that the state has no such interest in the controversy as would justify it in further continuing it.

(2) Because I am of the opinion that said suit was begun wholly for the purpose of adjusting equities between the original incorporators of the Blomstrom Motor Company, which equities can and ought to be adjusted in a chancery suit in the proper jurisdiction.

(3) Because no citizen of this state, save the original incorporators of said company, either as stock-holder or creditor, has any interest in the matters involved in said suit.

(4) Because this remedy ought not to be loaned to complainant to enable him to get other and different relief in his private matters than he could secure in a court of chancery."

Motion submitted, November 13, and granted, December 5, 1906, with costs against respondents M. M. and S. R. Kaufman. (No opinion.)

QUO WARRANTO CASES DISPOSED OF.

CIRCUIT COURTS.

The People of the State of Michigan, ex rel. Charles A. Blair, Attorney General, v. Escanaba Electric Street Railway Company. Delta circuit. Information in the nature of quo warranto was filed March 29, 1904, to inquire by what right the company was furnishing power to other concerns and to prohibit the carrying on of a lighting business in opposition to the city lighting plant, etc. The answer denied all intention of entering in a lighting business, etc. However, the case was submitted to the court with the intention of prohibiting the company from furnishing any electric power for the purpose of running machinery, etc., but the court held that the company had a right to dispose of surplus power in that way. Judgment for defendant entered, May 25, 1905, and on the same day an order was entered giving plaintiff time to move for a new trial or settle a bill of exceptions, but nothing further has been done in the case of plaintiff's attorney and after correspondence we were advised that the judgment entered May 25, 1905, "finally disposed" of the case.

Charles A. Blair, Attorney General, ex rel. City of Monroe v. The Monroe Traction Co., Toledo & Monroe Railway, and Detroit, Monroe & Toledo Short Line Railway. Information filed October 24, 1904, in Monroe circuit, files transferred to Wayne circuit, in December, 1904. Motion to quash denied, August 30, 1905. Proceedings to prevent respondents from using tracks and road north to Detroit and south to

Toledo, and a short track to the Lake Pier, claiming a franchise was obtained by fraud and for a street railway, and the road used as a general railroad. Tried in January, 1907. Decision of the Wayne circuit filed, Feb. 5 and judgment filed Feb. 8, 1907, in favor of respondents. (Carried to supreme court.)

John E. Bird, Attorney General, v. Michigan Sanitarium and Benevolent Association, a corporation. Quo warranto to determine corporate rights of the respondent, which was formed under "An act for the incorporation of hospitals or asylums in cases where valuable grants or endowments have been made to trustees for such purposes," etc., and the contentions of relator are that the corporation is carrying on a business not, etc., not contemplated by the statute under which it is incorporated. Hearing on demurrer, November 5, and opinion overruling filed November 20, 1906. (Carried to supreme court by certiorari.)

John E. Bird, Attorney General, ex rel. Arthur D. Stansell, v. Charles D. Aaron, et. al. Wayne circuit. Quo warranto to determine legal status of the Detroit United Bank. Order quashing information and awarding costs vs. relator Stansell, filed by the circuit court, March 15, 1907. (Carried to supreme court.)

The People of the State of Michigan by the Attorney General, on the relation of George E. Ellis, Moses Taggart, and Samuel A. Freshney, v. John F. Calder, et al. Kent circuit. Quo warranto to test right of respondents to act as a corporation under the name of Grand Rapids Hydraulic Co. Order filed sustaining demurrer to respondent's plea and dissolving the corporation, etc., May 7, 1907. (Carried to supreme court on writ of error.)

John E. Bird, Attorney General, ex rel. Frank S. Gibson, v. Roy L. Bentley. Montcalm circuit. Quo warranto re office of supervisor of third ward of the city of Stanton and member of board of supervisors of Montcalm county. Heard and order entered holding that common council had no authority to enact ordinance sub-dividing city into three wards and organizing new office of supervisor of such third ward and that respondent is guilty of unlawfully holding such office, etc., and that he be ousted from office and that relator Gibson recover costs, May 20, 1907.

QUO WARRANTO CASES PENDING.

SUPREME COURT.

Horace M. Oren, Attorney General, ex rel. Edward N. Breitung v. The Iron Cliffs Company, et al. Quo warranto.

John E. Bird, Attorney General, v. Michigan Sanitarium and Benevolent Association, a corporation. (No. 22,066.) Certiorari to Calhoun circuit, to review quo warranto. Submitted, June 3, 1907.

John E. Bird, Attorney General, ex rel. Arthur D. Stansell v. Charles D. Aaron, et al. Error to Wayne circuit. (No. 22,198.) In re Detroit United Bank. Submitted June 13, 1907.

The People of the State of Michigan by John E. Bird, Attorney General, v. The Detroit, Grand Haven & Milwaukee Railway Company. Quo warranto to determine charter rights of the railway company. Motion to quash the information argued and submitted, June 11, 1907.

CIRCUIT COURTS.

The People of the State of Michigan, ex rel. Charles A. Blair, Attorney General, v. Escanaba Water Company.

SCHEDULE "D."

Statement of chancery cases in state courts and cases in equity in United States courts.

CASES IN EQUITY, DISPOSED OF.

CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION.

Daniel B. Scully and Maurice H. Scully v. Arthur C. Bird, Circuit court of the United States. Eastern District of Michigan, southern division, in equity. Bill for injunction filed by Messrs. Scully, partners, engaged in the syrup business, under the name of D. B. Scully Syrup Co., against Arthur C. Bird, dairy and food commissioner of the state of Michigan. Decree entered dismissing motion for injunction and dismissing bill for want of jurisdiction, April 16, 1907. (Appealed to supreme court U. S.)

CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION.

Ypsilanti Reed Furniture Co. v. Otis Fuller, Warden Michigan Reformatory, Amos S. Musselman and Joseph Weinhold, Members of the Board of Control.

Murphy Chair Co., Pioneer Manufacturing Co. and Wm. Campbell, intervenors by petition.

Bill of complaint filed in November, 1906, and demurrer filed by attorney general in March, 1907. This case is disposed of by the amendment to the constitution adopted in April, 1907, abrogating the section upon which the decision in Manthey, et al., v. Vincent, et al. (145 Mich. 327) was based and by the decision in Murphy Chair Co., et al., v. Attorney General (148 Mich. 563), May 20, 1907, where the constitutionality of the amendment was sustained.

CHANCERY CASES DISPOSED OF.

SUPREME COURT OF MICHIGAN.

Martin Manthey, President National Broom-makers' Union No. 2 et al. v. Alonzo Vincent, warden of the state prison at Jackson, Michigan, et al. and Illinois Broom Co. Appeal from Wayne circuit court, in chancery. Argued and submitted May 3, and decree for complainants affirmed, July 23, 1906. (108 N. W. 667; 145 Mich. 327.) (See matter of application for mandamus, Murphy Chair Co. v. Attorney General.)

James D. Kennedy (complainant and appellant) v. State Board of Registration in Medicine. Appeal from Wayne circuit, in chancery. Bill against the board to enjoin the revocation of complainant's certificate of registration as a physician and surgeon. From a decree dismissing the bill, complainant appealed. Submitted April 12, and affirmed July 23, 1906. (108 N. W. 730; 145 Mich. 241.) The case of Thomas v. State Board, etc., (p. 26, 1906 report) depended on this decision.

George L. Woodworth v. Perry F. Powers, Auditor General. (No. 20,458.) Notice of appeal from Iron circuit, in chancery, filed in March, 1904, but prosecuting attorney was notified by auditor general in October, 1906, that it was not necessary to take any further action in this matter with reference to appeal, etc.

The People of the State of Michigan by Attorney General v. The Michigan Central Railroad Company. Appeal from Ingham circuit, in chancery. Information for an accounting for taxes, "Delinquent Tax Case." From an order overruling demurrer to the information, defendant appeals. Argued and submitted, January 2 and 3, and affirmed, July 23, 1906. (108 N. W. 772; 145 Mich. 140.) (Further proceedings in the Ingham circuit, answer was filed, etc.)

Zachariah Hayward (petitioner and appellant) v. William O'Connor trustee and Auditor General. Appeal from Benzie circuit, in chancery. Petition to compel setting aside the sale of land delinquent for taxes. Motion of defendant O'Connor to dismiss appeal denied, December 5, 1905. (105 N. W.; 142 Mich. 230.) Decree of circuit court dismissing petition affirmed by supreme court, July 9, 1906. (108 N. W. 366; 145 Mich. 52.)

John E. Bird, Attorney General ex rel. Wilbur Brotherton v. The Common Council of the City of Detroit et al., and Samuel T. Douglas et al., v. same defendants, appealed as one case from Wayne circuit court, in chancery. (No. 21,676.) First argued and submitted, June 13; re-argued, etc., December 4, 1906. Affirmed, April 30, 1907. (148 Mich. 71.)

CHANCERY CASES DISPOSED OF.

CIRCUIT COURTS.

Martin Manthey, President National Broom-makers' Union No. 2, et al. v. Alonzo Vincent, warden of the state prison at Jackson, Michigan, et al. and Illinois Broom Co. After the decision in the supreme court, affirming the decree for complainants, a petition was filed in the circuit court in September, 1906, for an order to show cause, complainant claiming that defendants had failed to comply with the terms of the decree. Testimony was taken in March, 1907, but the section of the constitution on which the case was based having been stricken from the constitution at the April election, no further proceedings have been taken. (See matter of application for mandamus Murphy Chair Co. v. Attorney General.)

Eugene Carpenter v. Perry F. Powers, Auditor General, Charles Slesdet, Fred Anderson, and Christian Prefrock. Osceola circuit court, in chancery. In August, 1903, motion to dismiss bill filed and complainant filed amended bill; demurrer filed in September, 1903. Order over-ruling demurrer filed, April 26, 1904. Amended bill filed, May 21; motion to strike amended bill from files, June 2; demurrer, etc., filed, July 14; answer and cross-bill filed, July 27; complainant's answer to motion filed, Aug. 29; motion to dismiss filed, Dec. 2; affidavit of default and order proconfesso filed, Dec. 12; order striking bills from files, Dec. 23; claim of appeal filed, Dec. 30, 1904. Notice of hearing demurrer filed, Sept. 11, 1906. Notice of hearing filed, June 11; decree filed and entered, June 25, 1907.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed thereon for the years 1892, 1893 and 1894. In petition of Clarence H. Venner. Ottawa circuit, in chancery. Findings of Judge filed, relief prayed for denied and petitions dismissed, February 5, 1907.

Alfred R. Bennett, receiver of the Presque Isle Mining Co. (James E. Sherman, substituted as complainant, in October, 1905), v. Mark M. Cross and Auditor General, Ontonagon circuit, in chancery. Notice of entry of final decree, dated January 14, 1907, received.

Elijah Haney v. Archie T. Miller, James B. Bradley, Auditor General, and Elmer E. Gable, Drain Commissioner of the County of Allegan. Allegan circuit court, in chancery. Decree in favor of defendants filed April 15, 1907. (To be appealed by complainant.)

The People of the State of Michigan, by John E. Bird, Attorney General, v. The Order of the Red Cross and Knights of the Red Cross. Jackson circuit court, in chancery. Bill for appointment of receiver. Order entered, September 23, appointing Wm. J. Boland, receiver, and temporary injunction issued. Order revoking appointment of Wm. J.

Boland and appointing Jonas A. Gifford, receiver, entered in October, 1905. Final account filed, July 23, 1906.

The People of the State of Michigan ex rel. John E. Bird, Attorney General, v. The Michigan Live Stock Insurance Company. Ingham Circuit Court, in chancery. Bill for appointment of receiver. C. K. Chapin, of Lansing, appointed, November 7, 1905. Hearing had, February 27, 1906. Decree signed and filed by the court, March 1, 1906. Order entered March 10, directing distribution of funds to claimants. Order allowing account, discharging receiver and cancelling receiver's bond, entered September 22, 1906.

Charles W. Hall v. James B. Bradley, Auditor General, John A. Miller and Clarence J. Miller. Berrien circuit, in chancery. Decree filed March 2, 1907. (Appealed to supreme court.)

John E. Bird, Attorney General, ex rel. Wilbur Brotherton v. The Common Council of the City of Detroit et al., and Samuel T. Douglas et al., v. same defendants, disposed of in Wayne circuit, in chancery, and appealed to supreme court, as one case.

John E. Bird, Attorney General, ex rel. Charles Flowers, v. Common Council of the City of Detroit, Francis A. Blades, City Comptroller, William B. Thompson, City Treasurer, and Frank Reich. Wayne circuit court, in chancery. No. 29,137. Decree signed, filed, etc., December 17, 1906. (Appealed to supreme court.)

The Pratt Food Company, a corporation, v. Arthur C. Bird, Dairy and Food Commissioner of the State of Michigan. Ingham circuit court, in chancery. Hearing commenced July 9, and concluded July 12, 1906, decree entered dismissing bill, etc., entered October 2, 1906. (Appealed to supreme court.)

John E. Bird, Attorney General, ex rel. Union School District of the City of Saginaw, and Frederick C. Simon v. Barnard Coal Co., Chappell and Fordney Coal Company, Pere Marquette Coal Company, City of Saginaw and Rolla W. Roberts, City Engineer. Saginaw circuit, in chancery. Information for injunction to restrain defendants from mining coal in the city of Saginaw, etc. Opinion filed by Judge Chauncey H. Gage, January 17, 1907, and the conclusions contained therein are as follows:

"The conclusion is that the complainants are entitled:

"First—To a decree enjoining the defendants from mining coal within 200 feet of any public school house or public building within the corporate limits of the city of Saginaw.

"Second—In view of the fact that the common council of the city has not approved of a method and system of mining deemed to be safe for the public interests of the streets and alleys, and has not provided sufficient means and force to properly supervise mining, if authorized by them, under the public streets and alleys, an injunction may issue to the defendant companies restraining further mining under the public streets and alleys and the removal of coal through said streets

and alleys obtained from lots or blocks that are platted, within the limits of the city, until the approval by the common council of a method and system of mining, and also the furnishing by the common council of means and assistance to carry the ordinance described into effect.

"Third—An injunction may issue restraining absolutely the mining of coal under the Saginaw river.

"Fourth—The defendant companies are not to be restricted by the injunction from using the entries already existing and in use both for the purpose of removing any coal they may mine from acreage property within or without the city limits. The use of such entries would operate more as a protection than otherwise, because they must be kept in good order and condition, and as they were made with the assent practically of the common council, it would be an act of great injustice to them not to permit their use for the purposes stated." Decree, May 1, 1908.

In the matter of the petition of the Auditor General for the sale of certain lands for taxes assessed thereon for the year 1902. In re petitions of Irvin S. Canfield, Ann Paxton and Alice E. Blakely. No decree was ever entered in this case but it was settled by petitioners redeeming the land tax sale.

William Ackley v. John Q. Burnham, and James B. Bradley, Auditor General. Delta circuit court, in chancery. Decree filed and entered July 17, 1906.

Johanna Rehfield v. Charles Rehfield. Wayne circuit court, in chancery.

Carl Paul v. Charles Rehfield.

William E. Henze v. Charles Rehfield.

The state was interested in these cases for the reason that this department was advised that either the estate of Frederick Hintz (also written Hinz) should escheat to the state or an inheritance tax should be paid on its transfer to heirs, if any, and this department filed a petition in February, 1906, to intervene. The matters were quite complicated. The Henze case was heard June 1, and June 6, 1906, decree was filed. An inheritance tax of $46.00 was determined, May 10, 1907.

The People of the State of Michigan, by John E. Bird, Attorney General, ex rel. Morris Battishill v. Hugh Carey (President), George P. Moog (Clerk), Amander G. Barnes (Assessor), Alex. Riopelle (Treasurer), Fred J. Clippert, Frederick Wenzel, Fred Schuknecht, William Harms, John Smith and Angus Smith (Trustees of the Village of Delray). Wayne circuit court. This case was disposed of by the decision in mandamus case, p. 14 report 1906. (143 Mich. 523.)

Alonzo D. Nichols v. William H. Rose, Commissioner of the State Land Office, Homer C. Dees and Fred J. Littlejohn. Allegan circuit

court in chancery. Order sustaining demurrer and dismissing bill filed and entered, April 26, 1907.

Albert D. Kniskern v. James B. Bradley, Auditor General, the city of North Muskegon and the Assessor of the City of North Muskegon. Decree countersigned, filed and entered, December 22, 1906.

The Jackson Timber Co. v. James B. Bradley, Auditor General, Harris Horwitz, William Sorget and Wm. Schmidt, administrator of the estate of Wm. Basil, deceased. Presque Isle circuit, in chancery. Bill to set aside taxes. Heard in Alpena circuit, December 14, 1906. Opinion rendered, January 28, 1907, sustaining position of attorney general. June 21, 1907, stipulation for discontinuance signed.

Petitions were also filed by The Jackson Timber Co., in re the following:

In re petition of the State of Michigan for the sale of lands for the taxes assessed thereon for the year 1897, and

In re petition of the Auditor General of the State of Michigan for the sale of lands for the taxes assessed thereon for the years 1895, 1896 and 1898, and

In re petition of the Auditor General of the State of Michigan for the sale of lands for taxes assessed thereon for the year 1899, and stipulation signed, June 24, 1907, that the petitions of said The Jackson Timber Co., be dismissed "without costs in favor of or against either party."

Ashton D. McKenney v. The Michigan State Board of Registration in Medicine, et al. Ingham circuit, in chancery. Decree was sought against the defendants to restrain said board from proceeding in the matter of revoking the license to practice medicine of said complainant in the state of Michigan." Stipulation to discontinue (without costs to either party) signed October 25, 1906.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed thereon for the year 1901. Georgiana Shooks petitioner v. James B. Bradley, Auditor General and Thomas E. McCann. Decree upon petition of Georgiana Shooks filed and entered, January 14, 1907.

Porcupine Land Association, limited, v. Michael O'Rourke and James B. Bradley, Auditor General. Ontonagon circuit, in chancery. Order dismissing cause and bill, June 6, 1907.

Jesse H. Reed, special administrator of the estate of Isaac Osgood, deceased, v. Theodore Sherwood, Commissioner of the Banking Department of the state of Michigan and Albert A. Carroll. Kent circuit, in chancery. In re decree of the Ingham circuit court, in chancery, against Ellen Osgood now known as Ellen Hosbury. Execution vs. lot 10, block 7, of Scribner & Turner's addition to the city of Grand Rapids. Subpoena, order to show cause and bill of complaint received March 22, 1907, but upon consultation with solicitor for complainant it was determined that the state was not interested.

ATTORNEY GENERAL'S OFFICE.

In re application of the Murphy Chair Co., et al., to the attorney general to file an information in equity in the Wayne circuit, to test the validity of the amendment to the constitution (Sec. 3, Art. 18) and a certain contract between the Ypsilanti Reed Furniture Co. and Michigan Reformatory at Ionia. Application denied and the Murphy Chair Co. applied to the supreme court for writ of mandamus, but order to show cause was denied, May 20, 1907 (148 Mich. 563). (See also Manthey, et al. v. Vincent, et al., 145 Mich. 327, and Ypsilanti Reed Furniture Co. v. Fuller, Warden, et al., for further particulars.)

CASES IN EQUITY, PENDING.

SUPREME COURT OF THE UNITED STATES.

Daniel B. Scully and Maurice H. Scully v. Arthur C. Bird. Appeal from the circuit court of the United States for the eastern district of Michigan. (20,756.)

CIRCUIT COURTS OF THE UNITED STATES.

FOR THE WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION.

The United States of America v. Charles Chapman, State Game and Fish Warden of the State of Michigan; Charles E. Brewster, Chief Deputy State Game and Fish Warden of the State of Michigan.

FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION.

Edwin W. Bishop v. Michigan Savings and Loan Association and George Lord, Chief of the Building and Loan Division of the State Department.

Pacific Express Company v. Perry F. Powers, Auditor General, et al. (Taxes of 1903.) No. 3846.

Thomas C. Platt, as President of the United States Express Company, v. Perry F. Powers, Auditor General, et al. (Taxes of 1903.) No. 3845.

James C. Fargo, as President of the American Express Company, v. Perry F. Powers, Auditor General. (Taxes of 1903.) No. 3844.

Pacific Express Company v. J. B. Bradley, Auditor General, et al. (Taxes of 1904.) No. 3878.

The Pacific Express Company v. J. B. Bradley, Auditor General, and Board of State Tax Commissioners. (Taxes of 1905.) No. 3919.

Marion W. Savage v. Arthur C. Bird, Dairy and Food Commissioner. Injunction. No. 3922.

Wirt E. Humphrey and Jake Filowitz v. The American Reserve Bond Company, et al. In re petition of the Western Trust and Savings Bank, Receiver, v. Frank P. Glazier, State Treasurer, and George A. Prescott, Secretary of State. September 17, 1906, heard and order entered directing State Treasurer and Secretary of State to deliver to the register of the court all moneys, securities, etc., deposited with them by the companies.

CHANCERY CASES PENDING.

SUPREME COURT OF MICHIGAN.

Delray Land Company, Limited, Henry M. Campbell and James Joy et al., v. Township of Springwells, Harry Stansfield, Supervisor of the Township of Springwells and the Board of State Tax Commissioners. Appeal from Wayne circuit, in chancery. Argued and submitted, June 15, 1906.

Charles M. Horton, and Harold D. Todd v. Pfister & Vogel Leather Co., August C. Helmholz and Perry F. Powers, Auditor General. Appeal from Cheboygan, in chancery. Argued and submitted, April 18, 1907.

The Pratt Food Company, a corporation, v. Arthur C. Bird, Dairy and Food Commissioner of the State of Michigan. Appeal from Ingham circuit, in chancery. Submitted, January 24, 1907.

In re petition of the Auditor General for the sale of lands for the taxes assessed thereon for the year 1903, and prior years. Cloverdale Land Co., Limited, contestant. Supreme court. Appeal from Alcona circuit, in chancery.

CIRCUIT COURTS.

David C. Pelton et al., v. William Erratt et al., and Roscoe D. Dix, Auditor General. Cheboygan circuit, in chancery. Nothing has been done in this case since December, 1900.

William E. Boice v. John H. Bloomshield, and Commissioner of the State Land Office. Iosco circuit, in chancery. Injunction. Court records show decrees entered in July and December, 1901, and claim of appeal filed May 3, 1902, but nothing further has been done in the matter.

Pine River Lumber Company et al., v. Edwin A. Wildey, Commissioner of the State Land Office, Perry F. Powers, Auditor General, Peter E. Shien, State Trespass Agent and James L. Sanborn. Injunction. Iosco circuit, in chancery.

John A. Widner v. Wildey, Commissioner State Land Office, Charles W. Reynolds and George W. Myers. Alpena county.

Walter S. Prickett v. Perry F. Powers, Auditor General, Edward W. Sparrow, Anna S. Lang, John Abner Sherman, John M. Longyear, and Gogebic and Ontonagon Land Co., Limited. Injunction. Ontonagon circuit, in chancery.

In the matter of the petition of Perry F. Powers, Auditor General, for the sale of certain lands for the taxes assessed thereon for the year 1891, and previous years. In re petition of Henry Platz v. Perry F. Powers, Auditor General, and Arthur N. Englehardt. Presque Isle circuit court, in chancery. Petition for review.

In the matter of the petition of Perry F. Powers, Auditor General, for the sale of certain lands for the taxes assessed thereon for the year 1891, and previous years. In re petition of Henry Platz v. Perry F. Powers, Auditor General, and William Spens. Petition for review. Presque Isle circuit court, in chancery.

Benjamin C. Morse v. Edwin A. Wildey, Commissioner of the State Land Office, and Perry F. Powers, Auditor General. Alpena circuit court, in chancery.

William H. Johnson and Esther E. Collins v. Perry F. Powers, Auditor General, and Charles Jaeger.

Robert H. Rayburn, William H. Campbell and William Denton v. The Auditor General. Montmorency circuit court, in chancery.

In the matter of the petition of Perry F. Powers, Auditor General, for the sale of certain lands for the taxes assessed thereon for the years 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893. In re petition of Samuel A. Davidson v. Perry F. Powers, Auditor General, and Edwin A. Wildey, Commissioner of the State Land Office. Montmorency circuit court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1899. In re petition of Henry Beebe v. The Auditor General, and John A. Miller. Alpena circuit court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for taxes assessed thereon. In re petition of Charles Keating v. The Auditor General, the Commissioner of the State Land Office, and Swan Rode. Alpena circuit court, in chancery.

Alexander McQueen v. Auditor General. Bill to set aside taxes. Montmorency circuit, in chancery.

In re petition of Herman Besser to set aside sales of certain lands for taxes of 1887 to 1896, inclusive. Montmorency circuit, in chancery.

In re petition of Herman Besser to set aside sales of certain lands for taxes of 1881 to 1886, inclusive. Montmorency circuit, in chancery.

Henry Platz v. The Auditor General et al. Presque Isle circuit court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes assessed thereon. In re petition of Estate of Albert Pack v. The Auditor General. Montmorency circuit, in chancery.

Henry Bolton v. The Auditor General, the Commissioner of the State Land Office and the Hecla Portland Cement and Coal Company, and Detroit Trust Company. Alpena circuit, in chancery.

Henry K. Gustin v. The Auditor General, the Commissioner of the State Land Office, the Hecla Portland Cement and Coal Company and the Detroit Trust Company. Alpena circuit court, in chancery.

Huron Land Company, Limited, v. The Auditor General, the Commissioner of the State Land Office, Edward H. Gillman, trustee, and The Turtle Lake Hunting and Fishing Club. Alpena circuit court, in chancery.

Peter Owens v. The Auditor General, the Commissioner of the State Land Office and Herschel H. Hatch. Alpena circuit court, in chancery.

Charles B. Williams v. The Auditor General, the Commissioner of the State Land Office, Edward H. Gillman, trustee, et al. Alpena circuit court, in chancery.

Estate of George N. Fletcher v. The Auditor General, the Commissioner of the State Land Office, Robert Beutel and Morris L. Courtright. Alpena circuit court, in chancery.

Henry Platz, Administrator of the Estate of Fred Lincoln, deceased, v. The Auditor General, the Commissioner of the State Land Office, Albert C. Beutel, Mrs. Albert C. Beutel and Isabella Seymour. Alpena circuit court, in chancery.

People of the State of Michigan, by Attorney General, v. Michigan Central Railroad Co. Ingham circuit. Demurrer having been overruled by the supreme court (July 23, 1906; 145 Mich. 140) as shown elsewhere in this report, answer was filed October 31, 1906.

George W. Moore, Commissioner of the Banking Department, v. State Bank of White Pigeon, Michigan et al. St. Joseph circuit, in chancery. Proceedings for appointment of receiver. J. Murray Benjamin, of White Pigeon, appointed receiver, August 2, 1904.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed against the same for the years 1894, 1897, 1899, 1895, 1896 and 1898. George B. Holmes, petitioner, v. Auditor General.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed thereon for the years 1891 to 1900, inclusive. Will A. Prince, petitioner, v. Auditor General. Alpena circuit, in chancery.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed thereon for the years 1889, 1890, 1894, 1896, 1897, 1898, 1899 and 1900. Malcolm McPhee, petitioner, v. Auditor General. Presque Isle circuit, in chancery.

The Estate of Albert Pack, deceased, by Arthur Pack et al., v. Auditor General and Commissioner of the State Land Office. Presque Isle circuit, in chancery.

Frank A. Turnbull et al., v. Auditor General. Presque Isle circuit, in chancery.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed thereon for the year 1898. Charles Wiltsie, petitioner, v. Auditor General. Montmorency circuit, in chancery.

The People of the State of Michigan ex rel. Charles A. Blair, Attorney General, v. Ann Arbor Sick and Accident Benefit Association. Washtenaw circuit, in chancery. Proceedings for appointment of receiver. John R. Miner appointed, November 14, 1904.

William K. Anderson et al., v. Township of Greenfield et al., and Board of State Tax Commissioners. Wayne circuit, in chancery.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed thereon for the year 1900 and prior years. Frank G. Kneeland, petitioner, v. Auditor General. Gratiot circuit, in chancery.

Clarence M. Burton et al., v. The Township of Greenfield et al., and Board of State Tax Commissioners. Wayne circuit, in chancery.

Frank Hoffman et al., v. Frank E. Palmer et al., and Auditor General. Oscoda circuit, in chancery.

Frank Hoffman v. Harry R. Solomon and Auditor General. Harry R. Solomon, cross complainant. Oscoda circuit, in chancery.

The People of the State of Michigan ex rel. John E. Bird, Attorney General, v. Independent Order of the Red Cross. Wayne circuit, in chancery. Proceedings for appointment of receiver. Henry J. Eikhoff, appointed, April 5, 1905.

James B. Peter v. Auditor General. Tuscola circuit, in chancery.

George L. Maltz, Commissioner of the Banking Department, v. City Savings Bank of Detroit et al. Wayne circuit, in chancery. Proceedings

for appointment of receiver. Union Trust Co., of Detroit, was appointed receiver, February 11, 1902.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed thereon. In re Michigan Sanitarium and Benevolent Association. Calhoun circuit, in chancery.

Merritt Chandler v. Sarah E. Kinde and Auditor General. Cheboygan circuit, in chancery.

Merritt Chandler v. John St. Peter et al. and Auditor General. Cheboygan circuit, in chancery.

The Standard Hoop Company, Limited, v. Cora A Lawrence Alling and James B. Bradley, Auditor General. Otsego circuit court, in chancery.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed thereon for the year 1884. Matilda R. Male v. Archie T. Miller and Auditor General.

Maria M. Smith v. James B. Bradley, Auditor General, William H. Rose, Commissioner State Land Office, William McLaughlin, County Drain Commissioner. St. Joseph circuit court, in chancery.

The Detroit Union Railroad Depot and Station Company v. Roscoe D. Dix, Auditor General. Injunction. Ingham circuit court.

Fort Street Union Depot Company v. Roscoe D. Dix, Auditor General. Injunction. Ingham circuit court.

John E. Bird, Attorney General, ex rel. Stanley L. Parkhill et al., v. Albert H. Northway, County Treasurer of Shiawassee County. Shiawassee circuit court, in chancery.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed for the years, 1889-1902. William A. Blackburn and Will A. Prince v. James B. Bradley, Auditor General. Alpena circuit court, in chancery.

John E. Bird, Attorney General, ex rel. Village of Trenton, Township of Monguagon (Grosse Isle) and The Sibley Quarry Company (a corporation), v. City of Wyandotte, Wayne circuit court, in chancery.

Myron J. Sherwood v. Isaac Erikson and James B. Bradley, Auditor General. Geogebic circuit court, in chancery.

Myron J. Sherwood v. Otto B. Olson and James B. Bradley, Auditor General. Gogebic circuit court, in chancery.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed thereon for the years 1896 to 1902, inclusive. In re petition of William T. Sleator. Alpena circuit court, in chancery.

Toledo, Ann Arbor and Detroit Railroad Company, v. James B. Bradley, Auditor General. Monroe circuit court, in chancery.

State of Michigan, by John E. Bird, Attorney General, v. Venice of America Land Company. St. Clair circuit court, in chancery. Transferred to Macomb circuit in August, 1906.

John E. Bird, Attorney General, ex rel. Duncan Currie, George West and John C. Lane v. Crapo Toll Road Company. Mecosta circuit court, in chancery.

The People of the State of Michigan, by James B. Bradley, Auditor General, v. The Detroit, Grand Rapids & Milwaukee Railway Company, Frederick E. Driggs, John Bell, Francis Pavy, The Grand Trunk Western Railway Company of Canada and Detroit, Monroe & Toledo Railroad Company. Ingham circuit court, in chancery. Proceedings to obtain a statutory tax lien against the Detroit, Grand Haven & Milwaukee Railway and its railroad property. Stipulation dismissing bill as to last named defendant, D. M. & T. R. R. Co., signed, in October, 1906. Argued and submitted, June 12, 1907.

Wisconsin & Michigan Railway Company v. James B. Bradley, Auditor General, and members of the State Board of Assessors. Ingham circuit court.

Charles M. Horton v. Salling, Hanson & Company, and James B. Bradley, Auditor General. Otsego circuit, in chancery.

Herman L. Swift, sole trustee for the Beulah Land Farm for Boys, v. Wm. H. Caldwell, J. W. Caldwell and James B. Bradley, Auditor General. Charlevoix circuit, in chancery.

In re petition of the Auditor General for the sale of certain lands for the taxes of 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1901 and 1902. L. D. Closser v. Auditor General. Alpena circuit, in chancery.

Joseph J. O'Connor v. Charles Hebard & Sons, incorporated, and James B. Bradley, Auditor General. Baraga circuit, in chancery.

In re petition of Auditor General for sale of certain lands for the taxes assessed thereon for the year 1898. Charles Wiltsie, petitioner, v. James B. Bradley, Auditor General, and Lillie B. DeCamp.

James W. Harrington v. Edward D. Dickinson, County Drain Commissioner, Frank J. Dibble, County Treasurer and James B. Bradley, Auditor General.

George A. Hart and George W. Swigart, v. John Kransniewski, Frank Kammski and James B. Bradley, Auditor General.

The Triangle Land Company, a corporation, v. John Hawley, James B. Bradley, Auditor General, Defendant to cross-bill of defendant John Hawley. Bill to quiet title. Ontonagon circuit, in chancery.

SCHEDULE "E."

Statement as to proceedings for the collection of estates which have escheated to the state.

ESCHEATED ESTATES CASES DISPOSED OF.

PROBATE COURTS.

In re Frances Mitchell, deceased, Cass probate, received in December, 1906, of George M. Haddon, administrator, amount of residue of estate, escheated to the state	$50.00
In re Lazar Tetrovitch, Houghton probate, deceased, received in June, 1907, of John T. Reeder, administrator, amount escheated to the state	121.45
In re Jennie E. Smith, deceased, Manistee probate, received in May, 1907, of William Lloyd, administrator, amount for real and personal estate	124.73
Total	$296.18

In re John McKiernan, deceased, Wayne probate. Petition filed in April, 1907, but withdrawn June 25, 1907, as proofs showed Francis Dolan and Ellen Dolan to be the heirs in court's opinion.

CIRCUIT COURT.

In re John Williams, deceased. Wayne circuit. Appeal from probate court, by Henry J. Falls, to recover $1,754.49, paid the state of Michigan, January 26, 1906, as an escheated estate under order of the probate court. The amount was returned to Mr. Falls as the proper heir and he paid an inheritance tax thereon (shown in Sch. "F").

ESCHEATED ESTATE CASES PENDING.

PROBATE COURTS.

In re Mary Greer, deceased, Grand Traverse county.
In re Elizabeth Clark, deceased, Barry county.
In re Nancy Doles, deceased, Barry county.
In re Martha Sheldon, deceased, Barry county.
In re Jeremiah Wilbur, deceased, Barry county.
In re Daniel Jackson, deceased, Barry county.

SCHEDULE "F."

Statement of inheritance tax proceedings: (a) Statement of moneys paid, and (b) Statement of proceedings in the various courts and of those arranged by correspondence, and cases in which tax has been finally determined *but not* paid *or only partially paid,* showing amounts due.

INHERITANCE TAXES PAID TO THE STATE.

AS THE RESULT OF PROCEEDINGS BY ATTORNEY GENERAL.

In the various courts, etc.:	Tax paid.	Interest.	Total.
Anna Veeder, Calhoun probate.....	$122.50	$41.89	$164.39
Sophia Hoyle, Jackson circuit.....	150.00	76.50	226.50
Henry W. Merriam, supreme court, appeal from Wayne circuit.....	450.00	137.70	587.70
Cordelia R. Ames, Macomb county lis pendens. Filed in September, 1905, to enforce payment of this balance of the tax of $50.95, $24.42 having been paid in July, 1905.....	26.53	8.33	34.86
Swen Munson, Muskegon county, lis pendens	37.16	18.64	55.80
Sarah F. Adams, Wayne probate.....	69.07	14.42	83.49
Frances M. Sherwin, Jackson probate..	32.27	———	32.27
Arranged by correspondence:			
John Williams, Wayne probate. (See statement in Sch. "E").....	87.72	27.04	114.76
Mary B. Littlefield, Wayne county.....	61.83	31.55	93.38
Mary A. Ransom, Gratiot county.....	55.65	12.78	68.43
Charles D. Thomson, Kent county.....	7.51	2.47	9.98
Total	$1,100.24	$371.32	$1,471.56

INHERITANCE TAX CASES DISPOSED OF.

SUPREME COURT.

In re appeal of James B. Bradley, Auditor General, from the determination re inheritance tax on transfers in the estate of Henry W. Merriam, deceased. Error to Wayne circuit. Submitted, January 23. Reversed, etc., March 26, 1907. (111 N. W. 196; 147 Mich. 630.) Tax paid June 4, 1907.

CIRCUIT COURTS.

In re Hosea Rogers, Livingston. Circuit court filed opinion holding transfers taxable. Order entered, August 27, 1906. (Appealed to supreme court.)

In re Samantha L. Woolsey, Wayne. Tax, $55.28, determined by probate court, March 19, 1906. June 3, 1907, order holding the transfers taxable and remanding the matter to the probate court signed by circuit judge, and entered.

INHERITANCE TAX CASES PENDING.

SUPREME COURT.

In re Hosea Rogers, appeal from Livingston circuit. Argued and submitted April 15, 1907.

CIRCUIT COURTS, APPEALED FROM PROBATE COURTS.

In re Louisa Peckham, Jackson. Tax, $37.20, determined by probate court, December 29, 1904, but appealed to circuit court by attorney general, in January, 1905, to have additional amount determined.

In re E. Crofton Fox, Kent. "No tax" on two certain amounts: $5,000.00 and $50,568.75, determined by probate court but attorney general appealed. Argued and submitted in circuit court, May 3, 1907.

PROBATE COURTS.

In re Mary K. Albright, Lenawee.
In re Ann Cerrow, Lenawee.
In re Clemons Hathaway, Lenawee.
In re Lucy Hayden, Lenawee.
In re Daniel C. Larned, Lenawee.
In re Mary Mellon, Lenawee.
In re Barthold Mulhauser, Lenawee.
In re Sarah A. Robinson, Lenawee.

In re Henry Smith, Lenawee.
In re Louise Weingart, Lenawee.
In re John Allen, Washtenaw.
In re Anastasia Cavanaugh, Wayne.
In re Lucas Wolfschlager, Wayne.
In re Brooks B. Hazelton, Washtenaw.
In re John B. Sutton, Lapeer.
In re Frank Penberthy, Menominee.
In re Clark J. Whitney, Wayne.
In re Edward J. Hulbert, Wayne.
In re Sarah W. Hyde, Wayne.
In re Florence Codde, Wayne.
In re Lucretia Sharpsteen, Jackson.
In re Eunice P. Wilson, Wayne.
In re Charles H. Dickerson, Wayne.
In re Francis F. Palms, Wayne.
In re Daniel Meisel, Wayne (petition for removal of executor).
In re Emilie Zimmerman, Wayne.

INHERITANCE TAX CASES.

In which tax has been finally determined *but not* paid or *partially* paid. Lis pendens filed to secure payment, etc., pending.

Name of estate of deceased.	County.	Tax due.	Determined.	Lis pendens.	Payment on tax in 1907.	Interest.
Laura E. Burr, $18.50 received in 1905	Ingham	$767 77	Dec. 31, 1902			
Joseph R. Hitchcock	Bay	68 14	July 31, 1903			
Anna B. Weiss	Bay	16 29	July 31, 1903			
Henry J. Parker	Oakland	22 50	June 29, 1903	July 14, 1903		
Morris W. Miner	Oakland	34 17	June 29, 1903	Sept. 9, 1905		
Isabella Buckell ($18.48 and interest paid)	Oakland,	3 02	June 29, 1903			
Stephen Nott Frazier ($10.26 paid in 1903)	Lapeer	41 02	April 20, 1903			
Mary Callan (merely lis pendens tax not determined)	Kent	.....	.....	Aug. 10, 1903		
Frederick Schaffer (lis pendens $37.50 paid)	Branch	14 10	Sept. 15, 1902	Aug. 15, 1905		
Ann T. Goggin	Kent	129 07	Nov. 24, 1905			
De Forest Hunt	Kent	50 40	Mar. 15, 1904	Oct. 31, 1905		
James Ovens	Lapeer	161 58	Jan. 18, 1905	Nov. 1, 1905		
Adam Scholes	Wayne	137 70	Sept. 9, 1904	Nov. 1, 1905		
Forester Allison	Washtenaw	1 25	Feb. 6, 1904	Nov. 1, 1905		
Thomas D. Sealey	Livingston	17 46	Feb. 19, 1904	Nov. 1, 1905		
Henry C. Plummer (total tax was $346.32 of which $86.58 was paid in 1903)	Monroe	259 74	Jan. 17, 1903	Dec. 21, 1905		
F. Curtis Wilcox	St. Clair	19 50	April 29, 1907			
Frederick Hints ("Hins")	Wayne	46 00	May 10 1907			

SCHEDULE "G."

Statement of insane cases, containing: (a) Statement of money collected and paid to the state, through the efforts of attorney general, with the co-operation of medical superintendents of various asylums and judges of probate, as reimbursement to the state for the support of certain insane persons at state asylums, (b) Statement of status of proceedings for reimbursement, (c) Statement of proceedings for deportation and importation of insane persons, for the fiscal year ending June 30, 1907.

Statement of money collected and turned over to the state treasurer, through efforts of attorney general, with the co-operation of medical superintendents of the various asylums and judges of probate of the various counties, as a reimbursement to the state for the support of certain insane persons.

Eastern Asylum..	Almon, Mary, Wayne county	$57 59	
	Andrews, Albert, Oakland county	611 25	
	Austin, John M., Genesee county	159 90	
	Ashe, Alice, Tuscola county	24 00	
	Beach, Aurilla, Oakland county	128 64	
	Brockway, Elias E., Livingston county	252 00	
	Carpenter, W. H., Bay county	104 09	
	Cody, Elijah, Lapeer county	100 00	
	Coger, Hattie J., Oakland county	102 75	
	Covert, James E., Tuscola county	19 94	
	Crawford, Isaac, Oakland county	950 00	
	Dailey, Chas. A., St. Clair county	50 00	
	Dowding, Wm., Shiawassee county	657 45	
	Folkerts, Jane, St. Clair county	168 00	
	Frey, John A., Washtenaw county	98 06	
	Fullerton, John, Washtenaw county	17 00	
	Kramer, Minna, Saginaw county	59 50	
	Lush, Albert, Oakland county	15 51	
	McQuade, Mary J., Macomb county	118 20	
	Markell, Melissa, Sanilac county	81 00	
	Martin, Gideon, Livingston county	132 00	
	Misener, Lorina, Wayne county	147 98	
	Noble, Grace, Oakland county	150 28	
	Peek, Harvey, Charlevoix county	7 00	
	Peyton, Elizabeth B., Washtenaw county	743 43	
	Reiger, John, Oakland county	200 00	
	Sheep, Letitia, Livingston county	54 31	
	Smith, Eliza, Washtenaw county	260 82	
	St. John, Chas. A., Oakland county	39 53	
	Stephens, Chas., Oakland county	212 41	
	Truscott, John M., Shiawassee county	83 19	
	Wasey, Nathaniel, St. Clair county	150 60	
	Wilsey, Alonzo J., Oakland county	67 20	$6,023 63

Michigan Asylum.	Albers, Henry J., Allegan county	$52 00	
	Anthony, Peter B., Ingham county	108 00	
	Armstrong, James, Soldiers' Home	226 00	
	Averill, Maria, Eaton county	44 16	
	Bark, Lewis M., Kent county	60 00	
	Bass, Jas. H., Kent county	48 00	
	Binder, Fredericka, Calhoun county	591 93	
	Bonton, Mary L., Calhoun county	120 00	
	Borts, John, Kent county	60 00	
	Boudiette, Samuel, Kent county	35 65	
	Briggs, Thursey J., Kalamazoo county	18 00	
	Brooks, Geo., Van Buren county	120 00	
	Card, Chlorinda, Oakland county	225 00	
	Cortright, Martin J., Eaton county	1,585 13	
	Coughlin, Mary, Van Buren county	150 00	
	Donahue, John, Berrien county	36 00	
	Dunning, Jessie M., Ingham county	75 13	
	Failing, Lavinia, Calhoun county	120 00	
	Feltman, Hannah, Kent county	101 08	
	Finch, Albert M., Eaton county	166 00	
	Foster, Samuel, Kent county	60 00	
	Fox, Rosa Belle, Calhoun county	90 23	
	Frobenius, Jay J., Kalamazoo county	26 00	
	Gorton, Lucy L., Barry county	30 00	
	Haight, Maud, Ingham county	281 44	
	Hardesty, Alex., Kent county	36 00	
	Hendershot, Hannah, Montcalm county	435 12	
	Hodgetts, Geo., Kent county	90 00	
	Holly, Geo. H., Soldiers' Home	60 00	
	Hyames, Elizabeth, Van Buren county	75 00	
	James, Henry, Kent county	100 00	
	Klug, Anna, Berrien county	694 38	
	Koesch, Anton, Kent county	87 50	
	Leland, Margaret, Branch county	87 36	
	Loose, John W., Monroe county	50 00	
	Lord, Herbert J., Eaton county	92 61	
	Maher, Phillip, Hillsdale county	86 67	
	Maltby, Chancey, Eaton county	45 00	
	Miller, Philo, Branch county	170 00	
	Morris, James, Kent county	200 00	
	Parnyea, Daniel, Monroe county	607 36	
	Parker, Iovena, Allegan county	90 00	
	Peck, Geo. W., Barry county	134 00	
	Pierce, Hattie, Ottawa county	272 48	
Michigan Asylum.	Porter, Eliza, Allegan county	$36 00	
	Pulsipher, Julian D., Allegan county	130 00	
	Rice, Wm. A., Kent county	50 00	
	Rockwood, Geo. W., Branch county	533 59	
	Sayles, Merton L., Ionia county	43 24	
	Schweigert, David, Saginaw county	311 45	
	Shears, Chas. R., Kent county	30 00	
	Smith, W. W., Van Buren county	160 00	
	Smith, Clara B., Van Buren county	112 00	
	Snyder, Eliza, Berrien county	350 00	
	Stuck, Ida, Allegan county	52 00	
	Thiel, Peter, Ottawa county	52 00	
	Upton, S. C., Jackson county	210 94	$9,914 45
Northern Asylum.	Bond, Wm., Newaygo county	$56 86	
	Carpenter, Mary A., Gratiot county	663 57	
	Lannin, Chas., Grand Traverse county	17 02	
	McKee, Cardine, Ionia county	137 84	
	McNamara, Michael, Marquette county	126 84	
	Miller, Henry R., Charlevoix county	118 00	
	Morris, Julia, Montcalm county	1,040 00	
	Rittenhouse, Mina, Newaygo county	558 25	
	Snyder, Addie E., Ionia county	56 00	2,794 38
State Asylum.....	Granger, Catherine and Wm., Wayne county	$94 59	
	W & 'pHelen, Ingham county	458 86	553 45
Total			$19,285 91

PROCEEDINGS FOR REIMBURSEMENT FOR SUPPORT OF INSANE PERSONS, SETTLED.

SUPREME COURT AND CIRCUIT COURTS.

In re Daniel Parnyea. Monroe circuit, appeal from probate court. Order of probate court affirmed, March 20, 1907, directing payment of $594.08 and proceeds of pension. (Amount paid shown in preceding table.)

In re Sarah Ethel Beers. Hillsdale circuit. Appeal from probate court. Order made by circuit court, February 11, 1907, that "Angus Beers, respondent herein, pay to the state of Michigan for the maintenance of the said Sarah E. Beers, the sum of $25 quarterly, or a total of $100 per year." (Taken to supreme court by certiorari.)

In re Sarah Ethel Beers. Supreme court. Certiorari to Hillsdale circuit. Order made June 11, 1906, by probate court directing father, Angus Beers, to pay $158.75 and cost of maintenance thereafter to the state, order made by circuit court modifying probate order and requiring payment of $100 yearly, appealed to supreme court. Submitted, April 18, reversed and order of probate court affirmed, April 30, 1907. (111 N. W. 915; 148 Mich. 300.)

PROBATE COURTS.

In re James Murray. Kalamazoo probate. Petition filed, May 19, 1906. Case submitted, June 11, and July 11, 1906. Order made directing payment of $500.00.

In re Julia Morris. Before commissioners on claims, Montcalm county. State's claim allowed by commissioners at $1,040, July 18, 1906; $1,040 paid by administrator, June 20, 1907.

In re John Edward Ebert. Probate court, Kent county. Petition for reimbursement filed May 25, 1906. Order made September 8, 1906, directing proceeds of pension to be paid to reimburse the state.

In re John M. Austin. Probate court, Genesee county. Petition for appointment of guardian filed March 3, 1906. William C. Stewart appointed guardian, March 20, 1906. Petition for reimbursement filed June 19, 1906. Order made October 9, 1906, directing guardian to pay $819.40, or as much thereof as is available out of the estate.

In re L. M. Showerman. Van Buren county. Petition filed in April, 1905, and dismissed, May 18, 1906; notification of the dismissal received November 30, 1906, the reason given being that the estate was not available at that time.

In re Frederika Binder. Probate court, Calhoun county. Petition

filed May 29, 1906. Order made August 23, 1906, directing payment of $592.93 in ten days and net income of estate thereafter. ($591.93 paid.)

In re Patrick Heney. Probate court, Barry county. Petition filed May 31, 1906. Order made July 19, 1906, directing payment of $200 in 60 days and $15 quarterly on maintenance account. September 21, 1906, appealed to Circuit court. Appeal pending.

In re Aurilla Beach. Probate court, Oakland county. Petition filed June 13, 1906. July 7, 1906, order made directing guardian to pay $84.96 and future cost of maintenance.

In re Hannah Straight. Probate court, Montcalm county. Petition filed June 11, 1906. Order made July 23, 1906, directing payment of $435.12 and $25 quarterly beginning September 10, 1906. (Hendershot, nee Straight.)

In re Clara B. Smith. Probate court, Van Buren county. Order made July 3, 1906, directing payment of $20 and $23 quarterly thereafter.

In re Albert Andrews. Probate court, Oakland county. Petition filed July 7, 1906. July 26, 1906, order made directing W. F. Meacham, guardian, to pay $611.25 in ten days.

In re Martin J. Courtright. Probate court, Eaton county. Petition filed July 9, 1906. September 21, 1906, order made directing John A. Courtright, guardian, to pay $1,585 in 10 days.

In re Clara S. DeMerritt. Probate court, Lenawee county. Petition for appointment of guardian filed.

In re Antonia Van Haaften. Kalamazoo county. Petition filed, but dismissed, July 11, 1906, until suit for private support decided. (Phelps v. Van Haaften, circuit court, assumpsit.)

In re Hannah Feltman. Probate court, Kent county. Petition filed July 28, 1906. Order made August 31, 1906, directing Charles M. Wilson, guardian, to pay $101.08, and it was paid.

In re Maude Haight. Probate court, Ingham county. Petition filed July 30, 1906. Hearing was never had upon petition. State received $281.44, being the entire proceeds available to pay state's claim, January 18, 1907.

In re Daniel Parnyea. Probate court, Monroe county. Petition filed August 1, 1906. Hearing in Probate court, November 3, 1906. Appealed to circuit court for Monroe county.

In re Eben B. Smith. Probate court, Monroe county. Petition filed August 1, 1906. Upon hearing of this petition it appeared that patient's wife, who is his guardian, was ill with consumption and that the income of the estate was insufficient for her care and maintenance. Petition was, therefore, dismissed.

In re Cicero J. Pickford. Lenawee county. Petition mailed prosecuting attorney, Aug. 2, but withdrawn Aug. 10, 1906, as wife and family required all possible income for their support.

In re Charles M. Harrington. Jackson county. Petition filed in August, 1906, but owing to circumstances of father of patient, matter was dropped.

In re Edward Shook. Probate court, Kalamazoo county. Petition filed August 3, 1906. September 26, 1906, order was made directing payment of $200 on or before May 1, 1907, and $15 quarterly until $170 is paid. (Part paid in July, 1907.)

In re LeDran Webber. Probate court, Ingham county. Petition filed September 10, 1906. Investigation showed real estate supposed to be owned by patient to be worthless. Petition dismissed.

In re Charles Lincoln. Before commissioners on claims, Calhoun county. State's claim allowed by commissioners, but not as yet paid by administrator.

In re William Dowding. Before commissioners on claims, Shiawassee county. State's claim allowed in full at $657.45 and paid January 8, 1907.

In re Eliza Snyder. Probate court, Berrien county. Petition filed October 8, 1906. Order made November 9, 1906, directing John D. Greenamyer, guardian, to pay $350 in 30 days and future expenses.

In re Anna Klug. Probate court, Berrien county. Petition filed October 8, 1906. Order made November 9, 1906, directing John D. Greenamyer, guardian, to pay $695 in 60 days.

In re Stephen C. Upton. Probate court, Jackson county. Petition filed October 10, 1906. October 31, order made directing C. D. Hubbard, guardian, to pay $210.94 and balance of payments quarterly.

In re James R. Armstrong. Probate court, Muskegon county. Petition filed October 10, 1906. Order made November 29, 1906, directing George H. Buzzall, guardian, to pay $182.42 in 60 days and net proceeds of pension quarterly beginning December 15, 1906.

In re Helen Wood. Probate court, Ingham county. Proceedings to revive commission on claims. Petition allowed November 3, 1906. State's claim at $1,000 and $458 paid November 22, 1906, this being the entire proceeds of the estate.

In re Minna Rittenhouse. Probate court, Newaygo county. Petition filed by prosecuting attorney. Order made October 25, 1906, directing Henry Woodward, guardian, to pay $558 in 30 days.

In re Elizabeth Peyton. Probate court, Washtenaw county. Petition filed October 30, 1906. Order made January 9, 1907, directing John L. Hunter, guardian, to pay $743.43.

In re Charles C. Stephens. Probate court, Oakland county. Petition filed December 15, 1906. Order made January 5, 1907, directing John Hale, guardian, to pay $212.41 in 10 days. No future payments.

In re Julia Holcomb. Before commissioners on claims, Ingham county. Claim filed February 20, 1907. State's claim allowed March 1, 1907 (but not as yet paid).

In re Fred Sloan. Probate court, Calhoun county. Petition filed February 24, 1907. Order made April 17, 1907, directing Andrew J. Sloan, father of patient, to pay entire cost of future maintenance.

In re Elijah Cody. Probate court, Lapeer county. Petition filed May 18, 1907. Order made June 15, directing George W. Jones, guardian, to pay $100 and $36 dollars quarterly.

In re Charles Taylor. Washtenaw county. In February, 1907, petition filed but on account of transfer of patient to state asylum, it will be necessary to proceed in some other way.

STATEMENT OF PROCEEDINGS FOR DEPORTATION OF INSANE PERSONS BEING TEMPORARILY MAINTAINED IN THE STATE ASYLUMS PENDING THE DETERMINATION OF THE PLACE OF THEIR LEGAL RESIDENCE.

In re Walter Wood. Admitted to the Northern Michigan Asylum April 25, 1906. The matter of deportation was immediately referred to this department. After considerable correspondence with the state board of control for charitable institutions of the state of Kentucky arrangements were completed for the transfer of the patient to the Eastern Kentucky Asylum, February 13, 1907. Upon directing the superintendent of the Northern Michigan Asylum to deliver the patient to the Kentucky authorities the department was advised that the patient had escaped from the institution and his whereabouts were unknown.

In re Martin Olson. Admitted to the Michigan Asylum, April 26, 1906, and immediately referred to this department. An investigation

of his residence showed that the patient was a transient and that his legal settlement could not be determined.

In re Daniel Gordon. Admitted to the Eastern Michigan Asylum. Reported September 26, 1906. October 22, 1906, order was received from T. E. McGarr, Secretary New York State Commission in Lunacy, stating that patient would be received by the superintendent of poor of Onondaga county at Syracuse, New York. Patient was deported October 28, 1906.

In re Lula Goodrich. Admitted to the Michigan Asylum. Reported October 6, 1906. October 13, 1906, patient was delivered to the custody of her sister, Irene Raynor, of Chicago, Illinois.

In re Israel Hannys. Admitted to the Eastern Michigan Asylum. Reported October 25, 1906, as being a resident of the state of New York. The matter was fully investigated but the department was unable to get sufficient facts to bring about deportation. The investigation was dropped November 20, 1906.

In re Albino Forzi. Admitted to the Michigan Asylum. Reported November 10, 1906, as being a resident of Tyrol, Austria. The matter was taken up with John L. Zurbrick, inspector in charge, department of commerce and labor, immigration service, Detroit, Michigan, and after some correspondence the patient was deported, January 14, 1907.

In re Benjamin Jacobson. Admitted to the Upper Peninsula Hospital for Insane. Reported September 13, 1906, as a resident of Ohio. After a thorough investigation it was found that his place of residence could not be established and the matter was dropped.

In re James Jenson. Admitted to the Upper Peninsula Hospital for Insane. Committed from Delta County, March 24, 1906. Reported as a resident of Marinette, Wisconsin. Pending the investigation the patient was discharged from the asylum about December 20, 1906.

In re Steve Komiss. Admitted to the Upper Peninsula Hospital for Insane. Committed from Iron county, December 5, 1906, and reported as a resident of Chicago. Correspondence with the police department of Chicago disclosed that the man's residence could not be ascertained and the matter was dropped.

In re Clarence Mendenhall. Admitted to the Michigan Asylum. Reported December 28, 1906. January 19, 1907, patient was taken in charge by the sheriff of Champaign county, Ohio, and removed from this state.

In re Gus Anderson. Admitted to the Upper Peninsula Hospital for Insane. Reported in December, 1906. Arrangements were consummated through this department for the delivery of this patient to his relatives in Norway, a portion of the expense to be borne by the state.

In re Thomas Bryant. Admitted to the Michigan Asylum. Reported May 3, 1906. The residence of this patient was reported as being in Jamaica. Investigation showed that the facts were not sufficient to establish a settlement there and the matter was dropped.

In re Mattii Pumala. Admitted to the Upper Peninsula Hospital for Insane. Committed from Iron county. Reported February 11, 1907, as a resident of Europe. The matter was taken up with John L. Zurbrick, inspector in charge, department of commerce and labor, immigration service, Detroit, Michigan, and the patient was deported, March 31, 1907.

PROCEEDINGS FOR REIMBURSEMENT, PENDING.

In re estate of Louis Rumagi, an alleged incompetent person. Kalamazoo Circuit, appeal from Probate court.

In re Patrick Henry. Barry circuit. Appeal from probate court.

In re Floyd Frost. Probate court, Berrien county. Petition filed October 8, 1906. W. W. McCracken appointed guardian. Order for reimbursement pending settlement of estate to which patient is heir.

In re Margaret Boardman. Probate court, Jackson county. Petition filed October 10, 1906. Hearing held open pending settlement of the estate to which patient is heir.

In re Thomas M. Hill. Probate court, Wayne county. Petition filed November 2, 1906. Order for reimbursement held open pending settlement of guardian's account in Probate court.

In re Grace Riley. Probate court, Jackson county. Petition filed October 10, 1906. Hearing held open pending settlement of the estate to which patient is heir.

In re John Malloy. Probate court, Monroe county. Petition filed November 3, 1906. Proceedings for reimbursement being held open pending settlement of guardian's account.

In re Katherine Hornbacher. Probate court, Huron county. Petition filed May 20, 1907, pending.

DEPORTATION MATTERS PENDING.

In re Catheryn M. Dougherty. Admitted to the Michigan Asylum. Reported May 20, 1907, as a resident of Chattanooga, Tennessee, which matter is being investigated with a view of securing deportation.

IMPORTATION MATTERS PENDING.

In re Henry E. Bohn. Reported by the secretary of the board of control of corrections and charities of Wisconsin, May 11, 1907, and being a resident of the city of Marquette. Arrangements were completed to receive this patient at Marquette June 6, 1907.

In re Eugene Bellmore. Reported by the secretary of the state board of control, Madison, Wisconsin, October 10, 1906, as being a resident of Menominee, Michigan. Pending an investigation as to the place of his residence the patient died.

SCHEDULE "H."

Statement of assumpsit cases, disbarment proceedings, ejectment, replevin, miscellaneous cases, and appraisal of telegraph and telephone properties of the state.

ASSUMPSIT CASE DISPOSED OF.

CIRCUIT COURT.

The People of the State of Michigan v. The Fenton Mutual Telephone Exchange. Genesee circuit. Assumpsit. On April 9, 1906, $28.80 was received by Auditor General, "on account" (shown in 1906 report), and September 26, 1906, $9.76 was paid. This practically settles the matter as the few dollars back penalty would be difficult to collect on account of the disbanding of the company and sale of property.

ASSUMPSIT CASES PENDING.

CIRCUIT COURT OF THE UNITED STATES, WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION.

American Express Company v. Perry F. Powers (Auditor General), and Daniel McCoy (State Treasurer). Demurrer filed in August, 1906.

ASSUMPSIT CASES PENDING.

CIRCUIT COURTS OF MICHIGAN.

George A. Loud, Henry M. Loud and Edward F. Loud, co-partners doing business under the firm name of Henry M. Loud's Sons, plaintiffs, v. Edwin A. Wildey, Commissioner of the State Land Office; Perry F. Powers, Auditor General; Peter E. Shien, State Trespass Agent, and George F. Russell, State Trespass Agent, Defendants. Assumpsit. Iosco circuit.

George A. Loud, Henry M. Loud and Edward F. Loud, co-partners

doing business under the firm name of Henry M. Loud's Sons, plaintiffs, v. Edwin A. Wildey, Commissioner of the State Land Office; Peter E. Shien and George F. Russell, State Trespass Agents, defendants. Assumpsit. Iosco circuit.

Actions to recover penalty under Section 7048, C. L. 1897, commenced in January, 1902, Wayne circuit.
The People, etc. v. James G. Barton.
The People, etc. v. Henry Merdian.
The People, etc. v. Charles R. Wilson.
The People, etc. v. Joseph F. Doyle.
The People, etc. v. Oliver N. Gardner.
The People, etc. v. Charles C. Canney.
The People, etc. v. Hugh O'Connor.

The People v. Mrs. Rosentha Giesy. Assumpsit. Ingham circuit. (In re inheritance tax on transfers in re Laura E. Burr estate.)

Edwin J. Phelps, as Treasurer Michigan Asylum v. Ive Van Haaften. Kalamazoo circuit. Assumpsit, to recover private maintenance account from husband of Antonia Van Haaften, commenced in July, 1906.

The People of the State of Michigan v. Herman Dey. Wayne circuit. Assumpsit.
The People of the State of Michigan v. John Kay. Wayne circuit. Assumpsit.
The People of the State of Michigan v. Will A. Waite. Wayne circuit. Assumpsit.
The People of the State of Michigan v. The Crucible Steel Company of America. Ingham circuit. Assumpsit. Argued and submitted on demurrer May 27, 1907.
The People of the State of Michigan v. The Quaker Oats Company, a corporation. Calhoun circuit. Assumpsit.

DISBARMENT PROCEEDINGS PENDING.

SUPREME COURT.

In re Wm. J. Barnard (of Paw Paw, Michigan). No. 21,839.

EJECTMENT CASES PENDING.

CIRCUIT COURTS.

Jane A. Sheldon v. John D. Dingman. Arenac circuit.

Charles B. Williams et al. v. Ansom Love and Roscoe D. Dix, Auditor General. Alpena circuit.

TRESPASS ON THE CASE, PENDING.

CIRCUIT COURTS.

Michigan Central Railroad Company v. The State of Michigan. Wayne circuit. (No. 48,210.) Trespass on the case, under Act 4, special session October, 1900. A suit by the Michigan Central R. R. Co., to recover alleged damages for repeal of charter. Demurrer overruled, order entered May 16, 1906. (Taken to supreme court by certiorari.)

Argued and submitted in the supreme court, December 18, 1906. Affirmed, April 30, 1907. (111 N. W. 88; 148 Mich. 151.) Pending in the circuit court, the defense of the state now being prepared.

Joseph S. McDowell, Assignee of Edward Wallerstein & Company, a corporation, v. Otis Fuller, Warden, Michigan Reformatory, formerly State House of Correction and Reformatory at Ionia. Wayne circuit court. Order for change of venue to Jackson county, filed in February, 1906.

Oliver N. Russell v. Otis Fuller. Eaton circuit. Trespass on the case for damages of $10,000. Summons received October 31, 1904. Motion for security for costs, etc., filed November 18, 1904; nothing further has been done in the matter.

Martin P. Birdsall v. Elon Smith, Ormond C. Howe and Edward A. Haven. Kent circuit. No. 21,461. Trespass on the case. Declaration filed for malicious prosecution. (Defendants are milk inspectors.)

MISCELLANEOUS CASES.

In re striking Finnish miners at the Michigan Mine, at Rockland, Ontonagon county, on July 31, 1906. Referred to attorney general, September 27, 1906. Investigated and report submitted to the governor, December 19, 1906.

In re claim of the State of Michigan v. The Firemen's Insurance Company of Baltimore, Md. (Amt. $979.31). A 30 per cent dividend was declared November 1, 1904 (see 1905 report, p. 48) and a second dividend was paid May 16, 1906, amounting to $121.22 and the commissioner of insurance advised the attorney general that it was his understanding "that we have received practically all the dividends upon the claim that will be paid by the receiver." but the matter will be pushed and if possible a further dividend secured before the receiver is discharged.

In re claim of the State of Michigan v. The City Savings Bank of Detroit. On the total amount of the claim, $194.48 was received "on account" during this fiscal year.

In re Wisconsin & Michigan Boundary. In pursuance of a resolution of the legislature of 1907, directing me to investigate and cause to be surveyed the boundary line between Wisconsin & Michigan, for the purpose of ascertaining whether the present boundary is where it was directed by congress to be located, I secured the services of Professor J. B. Davis of the University of Michigan and the investigation is now under way.

APPRAISAL OF TELEGRAPH AND TELEPHONE PROPERTIES.

For the purpose of informing the legislature of 1907 of the value of telegraph and telephone properties in this state and the extent to which they are escaping taxation, I procured the services of Dr. M. E. Cooley, Dean of the Department of Engineering of the University, to prepare data to supplement the figures on his former appraisal of these properties.

The following is taken from the report made to this office under date of April 5, 1907:

The method followed in this appraisal has been to divide the telephone properties of the state into three general classes:

First. Those companies whose property was valued in the appraisal of 1900, and which reported to the Auditor General for the year ending December 31, 1905.

Second. Those companies which have been organized since 1900 and which reported to the Auditor General for the year ending December 31, 1905.

Third. Those companies which have been organized since 1900 and which did not report to the Auditor General for the year ending December 31, 1905.

TELEGRAPHS: In 1900 the property of six telegraph companies was appraised, the total cost of reproduction at that time being $1,547,-088 and the present value $931,263.

In 1906, only three of these companies reported to the Auditor General. Those not reporting were very small in 1900 and their ommission, if they still exist, does not affect the results materially. The cost of reproducing the telegraph properties found in this appraisal is $2,006,-546 and the present value $1,434,739.

The total increase in present value since 1900 is $503.476, which is largely due to increased cost of labor and materials.

This appraisal does not include telegraph properties, owned by railroad companies, and the results are for physical properties only.

TELEPHONES: In 1900, the property of sixty-four telephone companies was appraised. The total value of telephone property reported in 1899 prior to the appraisal was $2,271.343.

The appraisal of 1900 showed the total cost of reproducing the sixty-four telephone properties to be $7,318,133, the present value at that time being $6,349,405.

The increase in present value over that of 1899 was $4,078,062.

In this appraisal one hundred and sixty-nine companies are listed. Of these, forty-two were appraised in 1900 and also at this time; twenty-two were appraised in 1900 and not at this time except as their property is found in other companies which were appraised; eighty-six are new companies since 1900; eighteen are new companies which have not yet made any report to the Auditor General; and one is a new company from which no information has been received.

This appraisal shows the cost of reproducing the physical property of the one hundred and twenty-eight companies appraised to be $16,-851,262, the present value of these properties being $13,589,880.

This present value exceeds that of 1900 by $7.240.475.

Of the total present value at this time $9,443,290 is to be found in the property of the Michigan State Telephone Company, and $4,146,590 in the properties of the so-called Independent Companies.

From figures I obtained from the Auditor General, I found that if these companies that are escaping taxation were assessed upon the ad valorem plan as other property is assessed, they would pay from $125,-000.00 to $150.000.00 more each year into the State Treasury.

The report of Dr. Cooley and the other data was duly submitted to the legislature.

SCHEDULE "I."

Statement of amounts received as costs of suits, etc.:

Michigan Central R. R. Co., et al., v. Perry F. Powers, Auditor General, supreme court of the U. S. Amount of taxed attorney fees. Received from clerk S. C., U. S., September 10, 1906	$540.00
Perry F. Powers, Auditor General, v. Detroit, Grand Haven & Milwaukee Railway Company. Supreme court of the U. S., No. 394. October term, 1905. Balance of deposit returned by the clerk, S. C., U. S., and paid to state treasurer, September 10, 1906	6.60
Manthey, et al., v. Vincent, et al. Wayne circuit. Amount of refund of county clerk's fee, for return of record to supreme court, which was paid the second time. Refunded in October, 1906	5.00
Total	$551.60

SCHEDULE "J."

List of insurancce companies whose articles of association, amendments to articles of association, etc., have been approved, etc., and a statement of the amount received and paid to state treasurer as approval fees.

People's Health and Accident Insurance Company, Grand Rapids, Mich. Articles of Incorporation approved September 7, 1906. Fee	$5.00
The Reliance Mutual Cyclone Insurance Company, Marlette. Articles of Incorporation approved September 15, 1906. Fee.	5.00
American National Life Assurance Company, Detroit, Michigan. Articles of Incorporation approved October 9, 1906. Fee	5.00
Standard Life & Accident Insurance Company. Amendments to Articles of Incorporation approved October 25, 1906, Fee	5.00
Michigan Mutual Fire Insurance Co., Dowagiac, Michigan. Charter. First approved, November 27, 1906, but March 21, 1907, certificates of November 27, cancelled and new ones signed. Fee	5.00
Genesee County Farmers' Mutual Fire Insurance Company. Amendment to Charter approved November 22, 1906. Fee	5.00
Northern Accident Company changed to "Imperial Casualty Company." Amendment to Articles of Association approved December 22, 1906. Fee	5.00
Patrons' Mutual Fire Insurance Company, Limited, of Sanilac county. Amended Articles of Association approved December 31, 1906. Fee	5.00
Patrons' Mutual Fire Insurance Company, Limited, of Tuscola county. Amendments to Articles of Association. Fee.. Approved January 22, 1907.	5.00
Northern Assurance Company, Detroit, Michigan. Articles of Association approved January 24, 1907. Fee	5.00

Union Casualty Company. Articles of Incorporation approved February 1, 1907. Fee	$5.00
United States Casualty Company, Detroit, Michigan. Articles of Incorporation approved February 7, 1907. Fee	5.00
Patrons' Mutual Fire Insurance Company, Limited, Genesee and Shiawassee counties. Amendments to Articles of Association approved February 7, 1907. Fee	5.00
Farmers' Mutual Fire Insurance Company of Houghton, Keweenaw and Ontonagon counties. Amendment to Charter approved February 11, 1907. Fee	5.00
Patrons' Mutual Fire Insurance Company of Michigan, Limited. Amendments to Articles of Association approved March 9, 1907. Fee	5.00
Patrons' Mutual Tornado, Cyclone and Windstorm Insurance Company. Amendments to Charter. Submitted February 26, and rejected March 9, 1907.	
Michigan Casualty Company, Saginaw, Michigan. Articles of Association approved March 25, 1907. Fee	5.00
Lapeer County Farmers' Mutual Fire Insurance Association. Proceedings to reorganize and extend the corporate existence approved April 23, 1907	No fee.
Michigan Commercial Insurance Company, Lansing, Michigan. Amended Articles of Incorporation approved April 29, 1907. Fee	5.00
Michigan State Life Insurance Company, Detroit, Michigan. Articles of Incorporation approved May 2, 1907. Fee	5.00
Farmers' Mutual Fire Insurance Company, of Ottawa and Allegan counties. Amended Charter approved May 11, 1907. Fee	5.00
Farmers' Mutual Fire Insurance Company, of Allegan and Ottawa counties. Proceedings to extend corporate existence approved May 14, 1907	No fee.
Farmers' Mutual Fire Insurance Company, of Ottawa and Allegan counties. Statement of proceedings to extend corporate existence approved June 6, 1907	No fee.
Columbia Casualty Company, Pontiac, Michigan. Articles of Incorporation approved June 5, 1907. Fee	$5.00
Total	$100.00

SCHEDULE "K."

Summary—Statement of all amounts collected and paid to the State through the efforts of the attorney general, also including the sum received as fees for approving articles of association, etc., of insurance companies, for the fiscal year ending June 30, 1907.

Escheated estates (Sch. E)	$296.18
Inheritance taxes, including interest (Sch. F)	1,471.56
Insane, support of (Sch. G)	19,285.91
Assumpsit case. People, etc., v. Fenton Mutual Telephone Co. (Sch. H)	9.76
City Savings Bank, claim of the State v. amount received "on account" (Sch. H)	194.48
Costs of suits, received (Sch. I)	551.60
Insurance approval fees (Sch. J)	100.00
Total	$21,909.49

SCHEDULE "L."

OFFICIAL OPINIONS OF THE ATTORNEY GENERAL.

ACT 91 OF P. A. 1903. AUTHORIZING PLACING PERSONS CHARGED WITH CRIME ON PROBATION. Fees not to be paid probation officer unless investigation ordered. Fees not to be for making annual report. Application of the act limited to circuit courts and other similar courts of record but not to justice courts.

August 2, 1906.

Mr. Clarence M. Browne, Assistant Prosecuting Attorney, Saginaw, Michigan.

Dear Sir—I am in receipt of your communication of June 28th, requesting an interpretation, by this Department, of certain provisions of Act No. 91 of the Public Acts of 1903, authorizing courts to place persons convicted of crime on probation.

For reply to the several questions submitted, would say that it is our opinion that under the provisions of Section 4 of the act the probation officer is not entitled to a per diem compensation of $2.00, unless an investigation is ordered by the Circuit Judge and a report made to him as provided in the act. This section provides that:

"Probation officers shall have, as to persons committed to their care, the powers of a sheriff, and shall be allowed the same fees as sheriffs are allowed for traveling, and the sum of two dollars a day for making investigation and report. The bills therefor upon approval by the court ordering such services, shall be paid by the county of which said services are rendered, in the same manner as are juror and witness fees."

Under this section of the law, if no investigation is ordered by the circuit judge the probation officer is not entitled to any fees whatever.

Section 3 of the Act requires probation officers to make report annually through the clerk of the county, to the State Board of Correction and Charities, showing in detail the working of the probation system in the respective counties for the fiscal year ending June 30th. The statute fixes no compensation to be paid probation officers for making this report, consequently they are entitled to none.

With reference to the manner in which payment of the per diem compensation of $2.00 a day for making investigations and report is to be made, I would say that in our judgment it is contemplated that the bills therefor, upon approval by the court, shall be paid by the county treasurer through the order of the county clerk.

Relative to the interpretation of section 1 of the act, which provides —"the several circuit courts of this state and all other courts having like jurisdiction in criminal cases, * * * shall have power to place the defendant on probation under the charge and supervision of a proba-

tion officer, etc.", would say that this provision limits the application of the law to circuit courts and other courts of record whose jurisdiction is practically the same as that of circuit courts, and that the act does not apply to justice courts.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

PREVENTION OF CRUELTY TO ANIMALS. Deputy Sheriffs selected by the society, subject to discretion of sheriff as to good character, etc., must be appointed, the statute is mandatory.

August 2, 1906.

Mr. E. J. Richmond, Prosecuting Attorney, Manistee, Michigan:

Dear Sir—Your letter of the 2nd inst. duly received. For answer thereto would say that Section 7 of the act for the prevention of cruelty to animals provides as follows:

"Any society incorporated in this state for the purpose of preventing cruelty to animals may designate one or more persons in each county of the state to discover and prosecute all cases of the violation of the provisions of this act; and it shall be the duty of the sheriff of such county to appoint each person so designated a deputy sheriff provided such person shall be of good moral character, and each person so appointed by the sheriff shall possess all the powers of a sheriff of the county in the enforcement of the provisions of this act. The sheriff however, shall not be responsible for any of the acts of such person or persons, but the society if incorporated, and if not, then the officers and members of the society on the request of which such person was appointed, shall be liable in the degree of a principal for the acts of an agent." (Sec. 11,745, C. L.)

It is the opinion of this department that, subject to the discretion vested in the sheriff to determine whether or not the persons selected by the society to act as deputy sheriffs are of good moral character, the statute is mandatory.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

PRIMARY ELECTION LAW. Act 181, P. A. 1905. County convention called to elect delegates to state convention called to nominate state officers, question whether such county convention under such a call could also select delegates to respective district conventions.

August 2, 1906.

Mr. James C. Wood, City Attorney, Manistique, Michigan:

Dear Sir—I have before me your communication of the 19th inst., relative to a construction of chapter 4 of Act No. 181, of the Public Acts of 1905. You state that a county convention was called by your county chairman for the purpose of electing delegates to the state convention to nominate state officers other than governor and lieutenant governor, under authority of chapter 4 of said act; that the call of the county chairman was for a "Republican county convention, to be held for the purpose of electing four delegates to the Republican state convention, to be held, etc., there to place in nomination candidates for state offices, etc., and for the transaction of such other business as may properly be brought before said convention;" that the provisions of the primary election act do not apply to congressional, senatorial or representative districts of which your county is a part; that at the said county convention held pursuant to said chapter 4 for the selection of delegates to the state convention, the delegates, which had been selected by enrolled voters only, adopted a resolution providing for the selection of delegates to the congressional, senatorial and representative conventions to be called and providing that if the county was entitled to more than three delegates the delegates selected would have the right to select such additional member as would make the delegations conform to the number given in the calls.

You ask if the provisions of Section 4 limit action of the county convention to the selection of candidates to the state convention only, or if the delegates constituting such convention have the right to select delegates to attend the respective district conventions.

Replying thereto would say that under the facts as stated in your communication the delegates elected under authority of the primary election law to the county convention to select delegates to attend the state convention called for the purpose of nominating state officers other than governor and lieutenant governor, would ordinarily have no authority to select delegates to attend the respective conventions. The county convention in question is not called for the purpose of selecting delegates to the respective district conventions. The delegates elected under the provisions of the primary election law were elected for a single and definite purpose. The call of the county chairman in this instance was not broad enough to authorize the delegates present at the county convention to select delegates to the respective district conventions, although we do not pass upon the question of whether such action would have been regular if the call had included such purpose. I believe it was the intent of the legislature to have delegates to conventions and candidates for office selected under the provisions of the primary election law only in those counties or districts where the law is applicable.

However, there is a feature in connection with this matter that should be borne in mind. It is a general rule that if the assembled delegates constituting a convention vote to seat delegates, such action is conclusive and may not be questioned. If any of the district conventions to which you refer have been held and the delegates selected in the manner in which you set forth attended and were seated, it is possible that inquiry as to the method of selection is foreclosed. Much depends upon the facts and circumstances as they actually exist.

I trust the above sufficiently indicates my position without further statement.

Very respectfully,
JNO. E. BIRD,
Attorney General.

INSANE PERSONS. "Non-residents" whose residence is unknown to be charged to the state.

August 2, 1906.

Dr. E. A. Christian, Medical Superintendent, Eastern Michigan Asylum, Pontiac, Mich.

Dear Sir—I am in receipt of your letter of the 24th ult., in which you ask whether patients committed to the asylum as public patients where the probate judge has declared upon the order of commitment that the person "has no residence in the state," or "has no legal residence in the county in which the adjudication is held and that he is unable to discover that such person has any legal residence in the state," should be charged to the county from which such patient is sent, for one year.

Section 1 of Act No. 59, of the Public Acts of 1903, contains this proviso—"That any insane person whose place of residence is not known may be committed to a state asylum as a state charge, but it shall be the duty of the medical superintendent of said asylum to return the person to his or her place of residence as soon as it can be learned."

It is also provided in Section 30 of Act No. 217, of the Public Acts of 1903, that—"A non-resident may be admitted to an asylum to receive such temporary care as he may require, pending his return to his home."

I am of the opinion that a statement upon the order of commitment, of the nature mentioned in your letter, is equivalent to a finding that the patient's residence is unknown, or that he is a non-resident, as the case may be, and that you should treat such patients as state charges from the time of their commitment to the asylum.

It has been the practice of this department to render assistance in securing the deportation of these non-resident patients and it will greatly facilitate our work if you will notify the department at once when patients are committed upon orders such as that indicated by your letter, and you will be better able to find the place of residence of

such patient if we are able to take the matter up when it is fresh in the minds of the officers having the patient in custody.

Very respectfully yours,
JNO. E. BIRD,
Attorney General.

TAX LAW. Board of State Tax Commissioners, powers and duties under Sec. 152, of Act 281 of 1905, and authority to review other property not specifically mentioned in complaint but contained in the same assessment district from which complaint is made. Complaint could be made broad enough to give jurisdiction to review generally the assessments.

August 2, 1906.

Hon. Orin T. Bolt, Secretary Board of Tax Commissioners, Lansing, Michigan:

Dear Sir—Your letter of July 3rd received and contents noted.

The resolution adopted by the Board of State Tax Commissioners, which you submit for my consideration, reads as follows:

"On motion of Commissioner Thompson, supported by Commissioner Hoyt, the Secretary was instructed to obtain from the Attorney General a writen opinion concerning the powers and duties of the State Tax Commission under Section 152 of Act 281, of the Public Acts of 1905, and especially to secure an opinion of the Attorney General as to the authority of the Commission to review other property not specifically mentioned in the complaint, but contained in the same assessment district from which complaint is made."

Certain portions of said Section 152, bearing upon the proposition under consideration, read as follows:

"After the various assessment rolls required to be made under this act shall have been passed upon by the several boards of review, and prior to the meeting of the board of supervisors in October of each year, the said several assessment rolls in the state shall be subject to inspection by said board of State Tax Commissioners, or by any member thereof; and in case it shall appear, or be made to appear, *by written complaint of any tax-payer residing in the assessment district,* to said board that property subject to taxation has been omitted from said roll, or individual assessments have not been made in compliance with the law, the said board may issue an order, directing the assessor whose assessment or failure to assess is complained against, to appear with his assessment roll at a time and place to be stated in said order."

This section also provides that a notice of the time and place that said assessor is ordered to appear shall be published in a newspaper published at the county seat, if there be one, etc., and where practical personal notice by mail is given prior to the hearing. A copy of said order is also required to be served upon the supervisor or assessing officer. The statute then provides:

"The said board, or any member thereof, shall appear at the time and place mentioned in said order, and the supervisor or assessing officer upon whom said notice shall have been served shall appear also with said assessment roll. The said board or any member thereof, as the case may be, shall then and there hear and determine as to the proper assessment of all property and persons *mentioned in said notice*, and all persons affected or liable to be affected by review of said assessments thus provided for may appear and be heard at said hearing. In case said board, or the member thereof who shall act in said review, shall determine that the assessments *so reviewed* are not assessed according to law, he or they shall, in a column provided for that purpose, place opposite said property the true and lawful assessment of the same."

Under Section 152 of the General Tax Law as added by Act No. 154, of the Public Acts of 1899, the Board of State Tax Commissioners was authorized to review assessments upon their own motion. This section as changed by the Legislature in 1905, requires a complaint in writing, to the Board of State Tax Commissioners, of a tax-payer residing in the assessment district, before said board would have authority to change the assessment roll in any particular.

It is my opinion that it was the intent of the Legislature to make such complaint the basis for the jurisdiction of the Board of State Tax Commissioners to review assessments, and the complaint of one who is not a taxpayer and also a resident of the district where the assessments are sought to be reviewed would not be sufficient to authorize said board to act in this respect. Furthermore, it is my opinion, from the language of this section taken as a whole, that the Board of State Tax Commissioners has no authority to review assessments that are not covered by a complaint in writing, of a tax-payer residing in the district where such property may be located. In other words, in the review of property covered by a proper complaint, it might appear to the Board of State Tax Commissioners that property in such assessment district, other than mentioned or referred to in the complaint, is not assessed according to law, in the opinion of the Board of State Tax Commissioners; but if the assessments of such property are not complained of to the Board of State Tax Commissioners in the manner designated by statute, said Board would have no authority to change the assessment.

It is my opinion, however; that a tax-payer residing in the district could make a complaint to the Board of State Tax Commissioners which would be broad enough to give the Board of State Tax Commissioners jurisdiction to review generally the assessments therein, but this would not be true of a complaint with respect to specific descriptions only.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

EASTERN MICHIGAN ASYLUM. Contract with D. G. H. & M. Ry. Switching charges cannot be increased, without forfeiture of contract rights by the railway company.

August 2, 1906.

E. A. Christian, Medical Superintendent, Eastern Michigan Asylum, Pontiac, Michigan.

Dear Sir—I have before me your communication of the 3rd of July, in which you state that the D. G. H. & M. Ry. has informed the Board of Trustees of the Eastern Michigan Asylum that it proposes, from and after July 16th, to raise the switching charges from $2.00 to $5.00 per car for all cars switched from other roads leading into Pontiac; that the only siding leading to the Asylum grounds is owned by the D. G. H. & M. Ry.; and that it makes no charge for the switching of cars delivered at Pontiac over the Grand Trunk line, but has charged $2.00 per car for switching from other roads. You also enclose a copy of a contract in existence between the above road and the state of Michigan, and ask whether there is anything in this contract which will hold the road to the charges heretofore made.

The copy of the contract which you enclose discloses that it was entered into on the 13th day of May, 1879, the parties thereto being the Board of Building Commissioners of the Eastern Michigan Asylum for the Insane, located at Pontiac, and the Detroit, Grand Haven & Milwaukee Railway Company, successors by purchase and reorganization of the Detroit & Milwaukee Railroad Company. It appears that when it was decided to locate the asylum in question at Pontiac the Detroit & Milwaukee Railroad Company agreed to construct a siding to the site of the asylum to be used for transferring freight. It became necessary for the Board of Building Commissioners to advance the greater portion of the money for use in the construction of this siding or branch road. The money was advanced with the understanding that it should be repaid by the receiver of the said road by paying over to the said Board twenty per cent of the earnings of the road for freight carried over its line on account of the said asylum or asylum supplies. This contract was evidently entered into by the respective parties prior to the repayment of the balance advanced by the said Board of Building Commissioners toward the construction of the said siding to the asylum. This contract, among other things, grants to the said railway company, the exclusive right of way across asylum land, for the purpose of running and operating trains or cars for the transportation of freight and other business for the state for said asylum and its use to and from the asylum and state property, until default be made in the conditions to be kept and performed by the said railway company and its successors. Some of the conditions are, that all freight shall be transferred over the line of the said railway company or any part thereof, also over said branch or siding, and be delivered to the asylum or be taken from the asylum by carload, as required by the person or persons in charge of the business affairs of the asylum; and that no greater charge shall be made for such freight than for freight of like class delivered for other parties at their freight house or place

of deposit at the railway station in Pontiac; "except that said company may charge a reasonable amount for the delivery of freight by cars from the Pontiac railway depot to the asylum, but not a greater sum than has heretofore been charged for the same."

Since the said railway company is granted the exclusive right to run and operate trains or cars for the transportation of freight and other business for the said asylum and its use over the siding in question, no other railroad corporation would have any right or authority to use this siding. In view of this contract relation, the latter quoted clause must be construed to mean that one of the conditions of the contract is that the said railway company shall deliver all cars of freight, the destination of which is the said asylum, from the railway station at Pontiac to the said asylum regardless of whether such cars of freight are delivered at the railway station at Pontiac by the said railway company or any other railroad company, and that for such delivery it is entitled to charge a reasonable amount, but not a greater sum than was charged prior to the date of the contract. The express terms of the contract would not warrant the above quoted clause to be construed to apply only to cars of freight delivered at the railway station at Pontiac by the D. G. H. & M. Ry. Co. The said railroad company is bound by the contract to comply with the terms and conditions therein set forth, and it is expressly stated that the non-compliance with its terms shall forfeit all rights in such branch road to the state.

I am, therefore, of opinion that the said railway company is not entitled to charge or collect a greater sum for the switching of any cars of freight to the said asylum than was charged prior to the date of contract. If the sums charged prior to the 13th day of May, 1879, did not exceed $2.00 per car, the said railway company is not entitled to charge a rate in excess thereof, and unless it performs this duty at the rate prescribed prior to the date of the contract it will forfeit all rights in the siding.

Very respectfully,
JNO. E. BIRD,
Attorney General.

RAILROAD FARES, INTERSTATE, between Michigan and Ohio, etc. Two-cent fare laws although in force in each state cannot compel two-cent rate on interstate business. Attorney General can do nothing; congress should be appealed to.

August 3, 1906.

Hon. Fred M. Warner, Governor, "Capitol." Lansing, Michigan.

My Dear Sir—In reply to your letter of July 5th, calling my attention to the fact that the interstate fares from Michigan to Ohio and from Ohio to Michigan are still three cents, while each State has a two cent rate, will say, this matter has been called to my attention several

times and I have given it considerable consideration, I am quite confident that nothing that I can do can prevent it.

The Michigan legislature has a right to provide for two-cent fares within its borders; the state of Ohio has a like right; but neither has the power to say what an interstate rate shall be. That is a question which is reserved to congress, and I am of the opinion that nothing will force the railroads from that position short of an act of congress. Had I been able to see where I could have afforded any relief, I should have done so several months ago.

I would suggest that you say to all those complaining, that the only remedy they have is by an act of congress, and that they should see their congressman and insist upon its being brought about.

Very truly yours,
JNO. E. BIRD,
Attorney General.

OFFICES, COMPATIBILITY, Justice of the Peace and postmaster.

August 3, 1906.

Mr. H. H. Atwell, Palmyra, Michigan:

My Dear Mr. Atwell—In reply to your inquiry of July 17th, as to whether a postmaster could hold the office of justice of the peace, will say that I know of no provision of the law which would prevent it.

There are some provisions in our law which make votes cast for certain state officers void if they are postmasters or anyone holding office under the United States, but it does not apply to the office of justice of the peace. Even if there was some inhibition against it, after the work was accomplished I do not apprehend that it would be set aside or declared void for that reason.

Very truly yours,
JNO. E. BIRD,
Attorney General.

JUSTICES OF THE PEACE, may hold office until successor is elected and qualified, under Section 17, Article VI of the Constitution, but there is no authority for remaining a member of the township board.

August 9, 1906.

Mr. William Rusling, Justice of the Peace, Deerfield, Michigan:

Dear Sir—In regard to your recent inquiry would say that the constitution, article six, section 17, provides in part, "There shall be not exceeding four justices of the peace in each organized township. They shall be elected by the electors of the township and shall hold their offices

for four years and until their successors are elected and qualified." While this provision entitles you to hold your office until your successor is elected and qualified, there is no authority for your remaining a member of the township board after July 4, 1906.

Very respectfully,
JNO. E. BIRD,
Attorney General.

PRIMARY ELECTION LAW. Voter who for good cause was not registered in spring may be enrolled in September so as to vote for nomination of congressman.

August 9, 1906.

Mr. James E. Eslow, Albion, Michigan:

Dear Sir—I have your communication of the 8th inst., in which you ask if a voter who did not register in the spring for any reason (sick, absent from home, etc.,) can in any way qualify so as to vote September 4th, for nomination of congressman in our district.

Replying thereto would say the question which you present is answered by the language of section 7 of chapter 2 of the primary law, which said section provides, in part, that, "Any person who was a qualified voter in an election district in this state on the day of enrollment provided for in this chapter and who failed to have his name enrolled on that day by reason of sickness or unavoidable absence from the election district and who is a qualified voter in said district at the time of the primaries thereafter held therein, or who may have become twenty-one years of age after the day of enrollment, may have his name enrolled by the election board on any primary day upon making oath as provided in the general election law in relation to registration of electors on election day." Accordingly, if, through illness, absence from his election district, etc., a person was unable to be enrolled on enrollment day, he may be enrolled by the board of primary election inspectors when that board is properly convened.

Very respectfully,
JNO. E. BIRD,
Attorney General.

LIQUOR LAW. Licenses cannot be issued by township board, county treasurer is authorized to issue licenses, township board approves sureties.

August 9, 1906.

Rev. J. W. Osborne, Sanford, Michigan:

Dear Sir—In reply to your letter of July 30th, I have the following to say:

A township board has no authority to issue a license. The county treasurer is the person designated by law to issue the liquor license. The township board approves or disapproves the sureties on the bond which persons entering into that business are obliged to give. If there is anyone selling liquor in your township without a license and without having first given a bond and paid the tax, they should immediately be stopped, and will be if you will call the attention of the prosecuting attorney to it.

Trusting that this will answer your inquiries, I am,

Very truly yours,
JNO. E. BIRD,
Attorney General.

PRIMARY ELECTION LAW. Nomination of state senator in 26th and 27th districts, not affected by supreme court decisions, declaring the apportionment act of 1905 unconstitutional.

August 8, 1906.

Mr. John F. Widoe, Hart, Michigan:

My Dear Sir—Your communication of July 25th, relative to the nomination of a candidate for state senator in the 26th and 27th senatorial districts, is at hand. You state that each of these districts adopted the primary system of selecting candidates for state senator, and ask if the recent decision of the supreme court operates in these districts to such an extent as to require candidates to be selected by the convention system.

I assume your inquiry relates only to the republican party in each of these districts. I understand that were it not for the recent decision of our supreme court relative to the apportionment of senatorial districts, candidates of the republican party for state senator, in both the 26th and 27th senatorial districts, would be selected on September 4th, under the primary election system. The primary election act requires that the petition to submit the proposition must be signed by a number of enrolled voters constituting twenty per cent of the vote cast for governor at the last November election in the district. If the proposition is submitted and a majority of those voting vote in favor thereof, candidates of this particular political party can be elected only by the primary system.

The records in the office of the secretary of state, disclose that in the

26th senatorial district, eliminating Benzie county from consideration, the petitions to submit the proposition contained more than the necessary twenty per cent, and a majority of those voting voted in favor of the proposition. It also appears from the records in the office of the secretary of state that in the 27th senatorial district, including Benzie county in the determination, petitions to submit the proposition contained more than the necessary twenty per cent, and that a majority voted in favor of direct nomination. Consequently, the effect of the recent decision of the supreme court does not change the result of the express will of the enrolled voters of the Republican party in either the 26th or 27th senatorial districts.

In view of the fact that the change in the territory constituting the respective districts in no wise affects the express will of a majority of the enrolled voters in each of said districts, it would seem that if candidates of the Republican party in each of these districts are selected under the primary system, such action would be regular.

Very respectfully,
JNO. E. BIRD,
Attorney General.

PRIMARY ELECTION LAW. Person signing two nominating petitions must indicate which petition he wishes to be counted on and cannot be allowed to have name on more than one unless there is more than one person to be elected to the same office. Elector need not be enrolled to become candidate for office. "Independent" voter may circulate Republican petitions and if he receives sufficient number of signatures his name must be placed on official Republican primary ballot. "Independent" voter cannot participate in primaries of any other party but may become a candidate of any other party if he conforms to the prescribed conditions.

August 9, 1906.

Mr. Joel L. Barrett, County Clerk, Cheboygan, Michigan:

Dear Sir—Your communication of the 8th inst. is received. You ask:

"1st. Where a person has signed two nominating petitions for the same office should his signature count for either party?

"2nd. Where a person has enrolled as an independent voter would there be any legal objection to his circulating and obtaining the necessary signatures to a petition for county surveyor on the Republican ticket; and if his petition is regular should the board of election commissioners receive it and place his name on primary ballot?"

The primary election law clearly contemplates that an enrolled voter shall sign but one nomination petition for a candidate for the same office.

Section 2 of chapter 5 of the Primary Election Law provides in part, that:

"Each signer of said nomination papers shall sign but one such paper for the same office except where there are two or more to be nominated and elected to the same office, when he may sign as many papers as there are persons to be elected to such office. He shall therein declare that he intends to support the candidate nominated therein, adding his residence, with the street and number, if any, and the date of signing, etc."

It is possible that an enrolled voter might sign nomination petitions for candidates for the same office, either on the same day or on different days; but in either case it is impossible for the county clerk to determine the intention of the signer. I do not think it was the intention of the legislature to require the county clerk to attempt to solve such a proposition. It being impossible to ascertain the intent of the voter where his name appears upon more than one nomination petition for candidates for the same office, such name should be excluded from consideration in both cases, unless prior to the time the petitions are acted upon the signer makes a prima facie showing to the officer charged with the duty of ascertaining the sufficiency of the petitions, which shall clearly indicate the particular candidate's petition upon which he desires to have his name counted.

An elector need not become an enrolled voter of any political party as a condition precedent to the right to become a candidate for office. A person who has enrolled as an independent voter may circulate Republican petitions, and if he receives the necessary number of signatures it is the duty of the board of election commissioners to place his name upon the official Republican primary ballot. An "independent" voter can not, of course, participate in the primaries of any other political party than that with which he is enrolled. However, there seems no objection in the law to his becoming a candidate of any other political party if he conforms to the conditions prescribed in the act.

Very respectfully,
JNO. E. BIRD,
Attorney General.

IN RE APPORTIONMENT FOR ELECTION OF STATE SENATORS, Act of 1905, declared unconstitutional by supreme court in Williams v. Secretary of State, 145 Mich. 447.

Lansing, Michigan, August 9, 1906.

Relative to the recent decision of our supreme court in the matter of the apportionment of senatorial districts, in its application to the 24th and 28th senatorial districts, the effect of the decision was—to take Arenac county from the 28th senatorial district and include it in the 24th senatorial district. The 24th senatorial district consisted, under the unconstitutional act of 1905, of the counties of Bay and Midland. The records in the office of the secretary of state disclose that, including the county of Arenac in the 24th senatorial district in

the determination of whether the petitions to submit the proposition were signed by enrolled voters constituting twenty per cent of the vote cast for governor at the last November election in the district; and whether the proposition of direct nominations prevailed; the petitions to submit the proposition were signed by more than the necessary twenty per cent, and a majority of the qualified enrolled voters in said district voted in favor of direct nomination. There would have been a majority even though every enrolled voter in Arenac county had participated and voted against the proposition. It is true that, owing to the unconstitutional apportionment act of 1905, the enrolled voters of Arenac county did not participate in the party primary, but the result would have remained unchanged if they had participated. A majority of the enrolled voters of the Republican party in the 24th senatorial district having expressed a desire to nominate a candidate for state senator by direct nomination, their will should govern. I am therefore of opinion that the candidate of the Republican party for state senator in the 24th senatorial district should be selected under the primary system.

In the 28th senatorial district it is understood that delegates from Arenac county participated in the convention which nominated a candidate. It is assumed that if there had been no delegates present from Arenac county, the result would have been the same. It is therefore my opinion that the recent decision of our supreme court does not affect the action of the convention held in the 28th senatorial district.

Very respectfully,
JNO. E. BIRD,
Attorney General.

PRIMARY ELECTION LAW. Voter cannot take part in other party primary but may insert name of other party candidate on his own party ballot and may write in the name of such person as he may see fit. Republican candidate may be voted for by Democratic voter but votes will be counted as for Democratic candidate for such office.

August 29, 1906.

Mr. M. Livy Agens, Ludington, Michigan:

Dear Sir—Your communication of the 27th instant, at hand, in which you ask our interpretation of that part of section 9, chapter 5, of the primary election law which provides as follows:

"He may, however, vote for any candidate whose name is not printed on the ballot by so writing in such other name as shall make it a substitute for any name which is printed thereon or when no candidate's name appears upon the ballot."

You ask, can an enrolled member of any party write in the proper place on his ballot the name of a candidate not of his party and have it counted the same as we now do on a split ticket in the regular election.

In answer thereto would say that there is no provision in the primary election law which prohibits a Democrat, for instance, from writing in the name of a Republican candidate in the proper place on his ballot. However, such a vote could not be considered in determining whether a person was nominated for office by the Republicans, it must be counted as a vote for the candidate upon the ticket on which it appears, that is to say, if a Democratic voter inserts the name of a Republican candidate in the proper place upon his ballot, such a vote could not be counted as a vote for the candidate upon the Republican ticket. It must be counted as a vote for the candidate upon the Democrat ticket. In other words, Democrats can take no part in Republican nominations or Republicans in Democratic nominations. To illustrate: If John Doe, a Democratic voter, writes upon his ballot in the proper place the name of Richard Roe, a Republican candidate for sheriff, that vote must be counted as a vote in favor of Richard Roe as the Democratic candidate for sheriff.

Very respectfully,
JNO. E. BIRD,
Attorney General.

INSANE ASYLUMS, Non-resident private patients not to be kept in state asylums, except temporarily.

September 12, 1906.

Mr. J. Barton, Prosecuting Attorney, Big Rapids, Michigan:

Dear Sir—I have your communication of the 3rd inst., and also a communication of James D. Munson, Medical Superintendent of the Northern Michigan Asylum.

You state that application has been made for the admission to the asylum for the insane of a non-resident patient, and ask if the laws of Michigan permit the care of such patients in our asylum.

Replying thereto would say I find no provision of law which authorizes the admission of a non-resident private patient in an asylum except for temporary care. I do not think it was the intent of the legislature in providing for the maintenance of insane asylums to provide for the care and treatment of patients other than residents of this state.

Section 30 of act 217 of the public acts of 1903, provides in part, that, "The asylums are intended for the benefit of the bona fide residents of the state. A non-resident may be admitted to an asylum to receive such temporary care as he may require, pending his return to his home." Accordingly, I am of opinion that the asylum authorities would have no right to enter into a contract to care for a non-resident private patient, and that the application for the admission of the person in question should be denied.

Very respectfully,
JNO. E. BIRD,
Attorney General.

IN RE BINDING CONTRACT. Response to letter from Board of State Auditors, of July 18, 1906, delivered to clerk of the board, September 12, 1908.

Robert Smith Printing Company,
State Binders,
vs.
Board of State Auditors.

MEMORANDA.

The orders which the State Binders insist should be bound under the terms of the contract now in force, and the date on which said orders were ordered by the Board of State Auditors, are as follows:

1st. No. 5746, Pioneer Re-print, Vol. 4, 1,500 copies.
Ordered April 24, 1906.

No. 5746, Pioneer Report, Vol. 5, 1,500 copies.
Ordered April 24, 1906.

2nd. No. 5879, State Board Library Commissioners,
Classification circulars, 1,000 copies.
(This order was cancelled.)

3rd. No. 5881, Superintendent of Public Instruction,
State Manual and Course of Study,
30,000 copies.
Ordered May 11, 1906.

4th. No. 6096, Secretary of State, Birth Law,
10,000 copies.
Ordered June 10, 1906.

5th. No. 6116, State Board of Health, Health
Quarterly for April-June, 1906.
25,000 copies.
Ordered June 26, 1906.

6th. No. 3813, Secretary of State, 1 Vol. Census,
20,000 copies.
Ordered June 23, 1905.

The re-print of Pioneer and Historical volumes is authorized by Section 4, Act No. 95, P. A. 1905, expenses thereof to be paid out of the general fund.

Under Sections 19 and 292 of the pamphlet containing the school laws, compilation of 1905, the State Manual and Course of Study, ordered by the Superintendent of Public Instruction, is authorized, the expense thereof to be paid from the general fund.

The 10,000 copies of matter in connection with the Birth Law, ordered

by the Secretary of State, is under authority of Section 4, Act No. 330, P. A. 1905, the expense thereof to be paid from the general fund.

The matter ordered by the Board of Health is authorized by Section 5, Act No. 18, P. A. 1905, the expense thereof to be paid from the general fund.

The Census Reports are authorized by Section 12, Act No. 240, P. A. 1901, the expense thereof to be paid from the general fund.

The above discloses that the expense of binding the different matter in the orders in question is not limited to any special year.

The provisions of the contract between the respective parties having any bearing upon this controversy read as follows:

That the said party of the first part, for itself, its successors and assigns, jointly and severally hereby convenants and agrees with the said party of the second part, through the State Board of Auditors and their successors in office, that in consideration of the sums of money hereby secured and paid as hereinafter mentioned, it will in good, careful, diligent and workmanlike manner do and perform for the State of Michigan, the binding, stitching, trimming, etc., and work incident thereto which under the law comes within the binding contract, that may be ordered according to law by the legislative, judicial and executive departments, for the term of two years from and including the first day of July, 1904, according to proposal and specifications submitted to said Board of State Auditors by the said party of the first part, etc. (Contract-p. 1.)

"And the said party of the first part further covenants and agrees to receive from the person designated as State Printer by the said party of the second part, of which notice will be given to said party by said second party, July first, 1904, or as soon thereafter as possible—all material upon which work is to be done under this contract, and will receipt to said State Printer therefor.

Again, "Said party of the first part further covenants and agrees, upon receiving copy or article upon which work is to be performed, to commence work immediately and to carry such work forward to completion promptly and without delay, and to give all work done hereunder preference over all work from other sources to be performed by the said party of the first part." (Contract-p. 2.)

The contract also provides that if the said Robert Smith Printing Co. shall fail in any manner to comply with any or all of the terms and conditions of the contract, the Board of State Auditors may, at its option, cause the contract to be terminated and to have any of the work covered by the contract performed by other parties, and if there is an increase of cost that the Robert Smith Printing Co shall be responsible for same.

The proposal and specifications contains the following clause:

"All work done under contracts awarded is to be commenced immediately upon delivery of copy or article upon which work is to be performed, and to be carried forward to completion promptly and without delay," etc. (Contract-p. 2.)

Claim of the Robert Smith Printing Co.

The Robert Smith Printing Co. claims that the preceding contract having expired on June 30, 1906, without said Printing Co. having received the sheets on the above orders or having any opportunity to perform the work, its obligation to perform the binding of the orders in question was cancelled by expiration of the contract; that any work delivered for execution during the term of the contract for the present two years should carry an order from the Board of State Auditors under the specification and prices named in the contract beginning July 1, 1906.

Our Claim.

It is our claim that the work represented by the orders in question having been ordered during the term of the preceding contract, which orders were accepted by the Robert Smith Printing Co., it is bound to bind the work in accordance with the orders which it has accepted under authority of the preceding contract; and that the fact that the sheets upon which the work must be performed were not delivered to the said Printing Co. until subsequent to June 30, 1906, does not operate to relieve the said Printing Co. from its obligation to perform this work under the said preceding contract.

1. It is now, and has been for a long time, the practice of the Board of State Auditors, in ordering printing and binding, to place thereon the stock number and forward it to the State Binder at the same time that the order is made out and forwarded to the State Printer for the printing of the matter in question. This practice is followed on account of its expediency, and for the purpose of furnishing to the State Binder sufficient information and authority to accept the work from the State Printer when the printing is completed. Each and every one of these items was ordered prior to June 30, 1906.

2. Under the terms of the contract the said Robert Smith Printing Co. is bound to perform all the work that may be ordered according to law by the legislative, judicial and executive departments, for the term of two years from and including the first day of July, 1904.

This work was actually ordered prior to June 30, 1906. The plain terms of the contract require the said Printing Co. to bind all matter that may be ordered according to law for the two years covered by that contract. It must be borne in mind that the cost of binding under the contract for the two years beginning July 1, 1906, is at a much higher rate than the cost of binding under the preceding contract; and because of the fact that the sheets upon which the work was to be performed were not actually delivered to the said Robert Smith Printing Co. prior to June 30, 1906, it attempts through this technicality to bring the binding of the items in question under the terms of the later contract. If the contention of the said Robert Smith Printing Co. is correct, it becomes well-nigh impossible to lay down any definite rule that can be considered governing. To illustrate: Suppose that on June 28th an order for the printing of a pamphlet is forwarded to the State Printer at the same time an order for the binding thereof is forwarded to the State Binder. If the printed matter is delivered to

the State Binder on the afternoon of June 30th, the State Binder may, if the contention of the Robert Smith Printing Co. is correct, refuse to accept the work. In the same illustration—suppose that the printed matter is actually delivered to the State Binder on the morning of June 30th and it becomes impossible for the State Binder to complete the binding of the matter during that day and it would take a number of days during the month of July to perform the work, would the fact that it is impossible for the State Binder to conclude the work on June 30th relieve him from maintaining a bindery and completing the work under the terms of the contract?

Again—suppose that the contract beginning on July 1, 1906, is not with the Robert Smith Printing Co., but with another party. If the Robert Smith Printing Co. desires to bind the items in question under authority of its contract, could it be said that the new State Binder could insist that such work would come under the contract now in force?

3rd. However, counsel for the Robert Smith Printing Co. claims that it is not within the power of the Board of State Auditors to impose any obligation to do work under a contract after the term of the contract has expired. Fortunately, this question is not presented. The Board of State Auditors is making no such claim.

Again, counsel claims that he finds nothing in the contract which makes it the duty of the Robert Smith Printing Co. to maintain a shop or keep workmen to do the work after June 30, 1906. If this contention is correct, it would be necessary for the Board of State Auditors, in entering into a new contract for the binding of state matter, to contract for the binding, not only for the two years beginning with July 1st, but also for the binding of such material as had been ordered up to and including that date. If there is any one fact fully evident in the contract in question, it is, that it is the duty of the State Binder to bind all matter ordered during the term of the contract. So far as the state is concerned, it is wholly immaterial whether the Robert Smith Printing Co. is obliged to maintain its shop and engage men for one or two days or for a number of months subsequent to June 30th in order to carry out the terms of the contract.

Again, counsel maintains that "If the work you are to do under the old contract was to be determined by the orders sent you, it would be within the power of the Board of Auditors, after a new contract was let in January, to keep the old contractor at work for a year after his contract expired, even although he may be doing the work at a loss." The question of whether or not the State Binder is performing the work at a loss is also a question in regard to which the State is not directly concerned. Contract relations exist, and if the State Binder has made a poor bargain it is the State Binder's fault and not any fault upon part of the State or any officer representing it. However, the suggestion of counsel is unreasonable. In view of the fact that the Robert Smith Printing Co. has had the state binding contract repeatedly, we may assume that it is not losing money. We are also warranted in assuming that if the contract for the two years beginning July 1, 1906, were at a less rate than the preceding contract, this controversy would not arise. However, as against the suggestion of

counsel, if it became necessary for the State Binder to maintain a shop and engage men for a year subsequent to the term of the contract, in order to perform the duties and obligations under the terms of the contract, the requirement must be met or the bondsmen must suffer the consequence.

4th. The act of the Robert Smith Printing Co. in accepting the orders for the binding is binding upon it at this time. No objection to the performance of the work was interposed until subsequent to June 30th, 1906.

5th. As a matter of precedent, the contentions of the Robert Smith Printing Co. should not prevail. If it is not required to do this binding under the old contract, hereafter it will be the duty of the Board of State Auditors to ascertain and calculate how much work can be done during the term of the contract, and refuse to forward to the State Binder any work the performance of which will require the State Binder to maintain a shop and engage men during any period of time subsequent to June 30th of the second year.

6th. Counsel for the Robert Smith Printing Co. attempts to make capital out of the clause in the proposal and specifications attached to the contract, which we have above quoted. This clause clearly means that it is the duty of the State Binder to commence work immediately upon delivery of copy or article by the State Printer. It does not mean that the state is bound to deliver any copy or article for binding at any specified time.

(See Mandamus case in Sch. B., in which the position of the Attorney General was sustained.)

RAILROAD TAXES Ad valorem tax law, Act 173, P. A. 1901. "Penalties" received from the railroads for their delinquency in payment of taxes should be turned into the same fund as the taxes. Interest received from banks while the taxes and penalty are awaiting distribution should go into the general fund.

October 4, 1906.

Hon. James B. Bradley, Auditor General, "Capitol," Lansing:

Dear Sir—In reply to your inquiry as to whether the penalties recently collected from the railroads for their delinquency in the payment of taxes should be turned into the same fund as the taxes are, will say that I am fully persuaded that the penalties should accompany and be turned into the primary school fund.

Distinction should be made, however, between the penalties and the interest which is received from the banks while the money is awaiting the date of distribution. The statute which permits the taxes and the penalties to be loaned to the banks provides that all interest received therefrom shall be turned into the general fund. So, while the penalties would go into the same fund with the taxes, the interest would be turned into the general fund.

Knowing that these views are in accordance with yours, I refrain from citing any authorities to sustain this position. The matter has been given much attention by my department and a brief has been prepared sustaining these views, which is on file in our office and to which you may have access if you desire.

Very truly yours,
JNO. E. BIRD,
Attorney General.

INSURANCE OF MOTOR BOATS, against hazard of fire only, is not required to be written upon the "Michigan Standard Policy," (under act 277, P. A. 1905); it must however be written in a marine insurance company, authorized to do business in this state.

October 10, 1906.

Mr. Edward S. Kelley, St. Joseph, Michigan:

Dear Sir—Your favor of the 13th ultimo received, in which you enclose a sample policy made use of by you in insuring motor-boats against the hazard of fire only, and request our opinion as to whether the insurance laws require the use of the Michigan standard policy for this class of insurance.

Section 7224 of the compiled laws of 1897 (section 132, insurance laws, 1905, compilation) provides for the organization of two classes of insurance companies;

"First, To make insurance on dwelling houses, stores and all kinds of buildings and upon household furniture, goods, wares and merchandise, and any other property, against loss or damage by fire.

"Second, To make insurance as aforesaid upon vessels, freights, goods, wares, merchandise and other property against the risks of inland navigation and transportation."

The hazard to be insured against by fire companies is clearly limited to that of fire. The form of policy called the Michigan Standard Policy, prescribed by act 277 of the public acts of 1905 (section 113, insurance laws), prescribes a form of policy to be used by fire companies exclusively. A careful reading of this form of policy indicates that it is intended to be limited in its application to risks situated upon land.

Marine insurance companies under subdivision two, above quoted are authorized to insure "vessels * * * and other property against the risks of inland navigation and transportation." One of the hazards insured against by ordinary marine policies is that of fire.

The form of insurance suggested by your letter seems to me to be but an ordinary form of marine insurance in which all the hazards except fire are eliminated.

I am, therefore, of the opinion that the insurance of motor-boats, as suggested by you, against the hazard of fire only is not required to be written upon the Michigan Standard form of policy. It might be

well to mention however, that such insurance must be written in a marine company authorized under our insurance laws to do business in this state.

Very respectfully,
JNO. E. BIRD,
Attorney General.

SCHOOL FUNDS OF A DISTRICT, surety bond of district treasurer not to be paid for, from.

October 25, 1906.

Mr. E. V. Esmond, Hale, Michigan:

Dear Sir—Your letter of the eleventh instant received and contents noted; also circular and letter from the Superintendent of Public Instruction.

In reply thereto would say that it is the opinion of this department that it would not be a lawful expenditure of the funds of the school district to authorize and pay the expense necessary to secure a surety bond for the treasurer of the district. I beg to return you circular and letter of the Superintendent of Public Instruction.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

MICHIGAN REFORMATORY AT IONIA. Reed chair contract does not violate constitutional inhibition against teaching a mechanical trade in our state prison.

November 23, 1906.

Hon. Otis Fuller, Warden, Ionia, Michigan:

Dear Sir—In reply to your communication of several weeks ago, as to what course you should pursue with reference to the contract with the Reed Chair Company, in view of the recent decision of our court construing the constitutional provision against teaching any mechanical trade in our prisons, will say that I have come to the conclusion:

1st. That the constitutional inhibition against teaching a mechanical trade in our state prison does not apply to the reformatory over which you have control;

2nd. That, if it is applicable to your institution, you would still have a right to continue the contract, because the chief supply of Reed chairs for Michigan is not manufactured in this state outside of those that are manufactured in your institution, and it is my judgment that we should contest that question of fact.

I, therefore, advise you that you should continue the contract as you have done.

Very truly yours,
JNO. E. BIRD,
Attorney General.

STATE TAX HOMESTEAD LANDS. Certificate taken out under Sec. 3953, C. L., as amended by Act 147, P. A. 1901, does not give settler an interest in the lands which could be the subject of devise by will, until the completion of the five years of occupancy. If the holder of the certificate dies before the period is completed, there is no person authorized to receive the deed from the state.

November 14, 1906.

Hon. William H. Rose, Commissioner of State Land Office, Capitol, Lansing:

Dear Sir—We have before us a copy of a letter written to your department under date of October 26, 1906, by one J. S. Abdall, and referred to this department for an opinion as to whether a person who has taken out a state tax homestead certificate under section 3953, compiled laws, as amended by act 147 of the public acts of 1901, but has not completed the required five years of occupancy, has such an interest in the lands for which such certificate is issued as would be the subject of a devise by will.

Reading section 3953 in connection with section 3955, compiled laws of 1897, as amended by act 39 of the public acts of 1901, it is clear that the right of a holder of a homestead entry certificate is nothing more than a right of occupancy personal to the holder of the certificate which may, if the person completes the period of occupancy required by the statute, ripen into a right to a deed from the state. It is also clear that the only method of transfer of such right is by surrender of the homestead certificate for the benefit of some other applicant in accordance with section 3955, amended as aforesaid.

The statute contains no mention of any right on the part of the heirs, devisees or even the widow of the holder of the certificate to complete the period of occupancy and receive the deed from the state. On the contrary the statute requires proof of occupancy to be made before the commissioner of the state land office, and specifies that the deed shall be made to "such person," referring directly to the holder of the certificate. If, therefore, the holder of the homestead certificate dies before the period of occupancy is completed, there is no person authorized by the statute to receive the deed from the state.

A very similar question was raised in Hall v. Russell, 101 United States, 503. The court says (page 510):

"As there could be no grant until there was some person entitled to receive it, the conclusion would seem to be irresistible that under this provision married settlers had no estate in the land which they could devise by will until, from being qualified settlers only, they had become qualified grantees. Having completed their settlement and nothing remaining to be done but to get their patent, their estate in the land was one that could be devised by will or which would go to the surviving husband or wife and children or heirs of a deceased married person. *Not so, however, with the mere possessory rights which preceded a compliance with the provisions of the act so as to entitle the settlers to their grant of the land.*"

We are, therefore, of the opinion that the holder of a homestead tax

certificate who has not completed the period of occupancy which would entitle him to a deed from the state, has no right in the lands held under such certificate which would be the subject of a devise by will.

Very respectfully,
JNO. E. BIRD,
Attorney General.

COUNTY ROAD SYSTEM: Reward for building stone road, under Act 146, P. A. 1905, intended to be used for road purposes and it should be placed in the county road fund, and not in the general fund of the county.

November 23, 1906.

Mr. H. W. Stockman, County Treasurer, Tawas City, Michigan.

Dear Sir—We have your favor of the 17th inst. in which you state that the county has been paid $1,023.00 as award for building stone road, under section 10, act No. 146, public acts of 1905, and inquire whether this shall be credited to the county road fund or the general fund.

Under section 4281 of the compiled laws of 1897 provision is made for determining the amount of tax to be raised for road purposes, and for the placing of the same in a separate fund, which can be drawn upon only in certain way.

The title to act 146 states that the act is to "provide for a system of state cooperation with townships and counties in the improvement of public wagon roads and to make an appropriation therefor."

Section 11 contains the proviso that "in case the road building money was raised by the sale of bonds, the state reward money shall be used only for the payment of the principal of the bonds."

Although the money to be paid by the state is spoken of in the act as a reward, it seems to us clear from the title of the act and the terms of payment of the money that it was the intention of the legislature that this money should be used for road purposes.

It is, therefore, our opinion that in counties under the county road system above mentioned, state reward money should be placed in the county road fund and not in the general fund of the county.

Very respectfully,
JNO. E. BIRD,
Attorney General.

REPRESENTATIVE IN LEGISLATURE. Election while holding office of sheriff, is void. However, it is not to be inferred that the ineligibility of the person who received a majority of the votes, would operate to elect the person who received the vote of a minority of those voting.

November 24, 1906.

Mr. Clare T. Purdy, Gagetown, Michigan:

Dear Sir—Your communication of November tenth is received. I regret the delay in answering same, which was occasioned by my absence from the city. You state that the man elected to the office of representative in the legislature from your county is holding the office of sheriff. You ask whether a person holding such office at the time of the election is eligible to the office of representative in the legislature.

Replying thereto would say, this matter seems to be governed by the language of the constitution. Section 6 of article IV of the constitution provides that, "No person holding any office under the United States or any county office, except notaries public, officers of the militia and officers elected by townships, shall be eligible to or have a seat in either house of the legislature, and all votes given for any such person shall be void."

It is my judgment that the so-called election of the person holding the office of sheriff is absolutely void. However, it must not be inferred that we are holding that the ineligibility of the person who received a majority of the votes, would operate to elect the person who received the vote of a minority of those voting. The question of remedy is one in regard to which you should be advised by your attorney, who will be in a position to adopt such a course as may be necessary to protect rights and secure a proper adjustment of the matter.

Very respectfully,
JNO. E. BIRD,
Attorney General.

LAND,—LOT 5, IN SEC. 8, OF N. E. Fr. ¼ of S. W. ¼, T. 30 N., R. 2 W. Title belongs to the state.

November 28, 1906.

Hon. William H. Rose, Commissioner State Land Office, Capitol, Lansing:

Dear Sir—In reply to your communication of the 12th inst. in which our opinion is asked upon the following question: "Does Lot 5 of Section 8 of the N. E. fractional ¼ of the S. W. ¼, T. 30 N., R. 2 W., as shown on the plat of the survey by Brewes, belong to the state of Michigan, or does it belong to the purchasers of the entire S. E. ¼ of Section 8 under the original survey, which constituted at that time, Lots 4 and 5, and the S. W. ¼ of the S. E. ¼," would say that it

is our opinion that Lot 5 belongs to the state of Michigan. This conclusion is based upon the following:

It appears by a plat of survey made by Mullett and Brevort in 1839 and approved June 23, 1840, that said Section 8 is divided into the S. E. ¼ of the S. E. ¼ and Lots 1, 2, 3, 4, 5 and 6, containing in the aggregate 300.17 acres, the residue of the section apparently being covered by an inland lake.

It further appears that Lots 2, 3, 4, 5 and the S. E. ¼ of the S. E. ¼ were patented to the state as swamp land, May 2, 1854, Lot 5 by such plat being identical in position with the S. W. ¼ of the S. E. ¼.

It also appears that a re-survey of the township was made by A. P. Brewes in 1856 and approved August 14, 1857. According to this last survey Section 8 is divided into the east half of the N. E. ¼; N. W. ¼ of the N. E. ¼; east half of the S. E. ¼; S. W. ¼ of the S. E. ¼; S. E. ¼ of the S. W. ¼ and Lots 1, 2, 3, 4, 5 and 6, aggregating 520.87 acres, such additional land being formed, presumably, by the recession of the waters of the Lake. Lot 5 by the plat of 1857, is the N. E. ¼ of the S. W. ¼.

It further appears by letter from the general land office under date of February 16, 1894, that that department is of the opinion that the title to Lot 5, as shown by the plat of 1857, is in the state or its grantees.

The only question then is whether the state has deeded away its right to Lot 5, as shown by the plat of 1857.

From a letter of your department under date of the 17th inst. it appears that the state did not deed its interests according to the original survey of 1839, but deeded according to the survey of 1856. It appears that on the 31st day of March, 1873, the following described lands were sold to Charles L. Ortman, North half of the N. E. ¼; S. E. ¼ of the N. E. ¼ and Lot 3, containing in the aggregate 157.91 acres; also N. E. ¼ of the S. E. ¼; south half of the S. E. ¼ and Lot 4, containing in the aggregate 159.20 acres.

By the plat of 1857, Lot 5 stands between the meander line of the lake and Lot 4. In other words, Lot 4 did not have as one of its boundaries the meander line of the lake, except the N. W. corner thereof. Consequently the purchasers of Lot 4 have no claim of title to Lot 5, as shown by the plat of 1857; and we, therefore, are of the opinion above expressed.

Very respectfully,
JNO. E. BIRD,
Attorney General.

INSURANCE LAW. CONTRACT OF REINSURANCE, between Northern Accident Company and National Casualty Company; the commissioner of insurance would be justified in recognizing the Northern Accident Company as a corporation.

November 28th, 1906.

Hon. James V. Barry, Commissioner of Insurance, Capitol, Lansing, Michigan:

Dear Sir—I have carefully reviewed the matter submitted by you, relating to the contract of reinsurance between the Northern Accident Company and the National Casualty Company, and have reached the conclusion that you would be justified in recognizing the Northern Accident Company as a corporation still in existence under the laws of the state and authorized to transact the business for which it is organized.

Very respectfully,
JNO. E. BIRD,
Attorney General.

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*PRISON CONTRACT. MECHANICAL TRADES. Cigar making in prison at Marquette is the carrying on of a mechanical trade under decision in Manthey, et al., v. Vincent, et al., and no new men should be put to work. All men who have already learned the trade or knew it before coming to prison may be retained on the cigar contract.

December 5, 1906.

Hon. James Russell, Warden, Marquette, Michigan:

My Dear Sir—In reply to your inquiry of several weeks ago, as to the status of the cigar contract which is being carried on at your institution, in view of the late decision in Manthey, et al., v. Vincent, et al., 108 N. W. 667, will say that, under the foregoing decision I think the carrying on of the business of cigar-making at your institution is the carrying on of a mechanical trade, and I think you should put no new men to work on that contract. As I understand the law, you would have a right to retain upon that contract all those who are already learned in that trade, and you would also be permitted to put any new men who may come to prison who have already been taught the trade, upon the contract.

As to the other contracts that are being carried on at present I think that I will express no opinion at this time. In the event that any question arises as to them, I will then advise you when I think the status is under the foregoing decision. Should any further inquiries be suggested to your mind, I will gladly answer them if you will indicate what they are.

Very truly yours,
JNO. E. BIRD,
Attorney General.

*See also opinion to Allen N. Armstrong, also of Dec. 5, 1906.

PRISON CONTRACTS—JACKSON PRISON. Mechanical Trades, as under the decision in Manthey, et al., v. Vincent, et al., 145 Mich. 327.

Granite Cutting.—A mechanical trade. No men to be put on that contract, who have not already been taught the trade.

Withington and Cooley Contract.—Although involving the teaching of a mechanical trade, is under no constraint, as there is no competition.

Broom Contract.—A mechanical trade. None to be put on it who are not already learned in this trade.

Reed Furniture Contract.—Opinion reserved.

December 5, 1906.

Hon. Allen N. Armstrong, Warden, Jackson, Michigan:

My Dear Sir—Answering your inquiry of several weeks ago for advice as to the status of the other contracts carried on at the prison, by reason of the late decision, in Manthey, et al., v. Vincent, et al., 108 N. W. 667, (145 Mich. 327) I have this to say:

Granite Cutting.

Granite cutting is undoubtedly a mechanical trade, under the foregoing decision, and I think you should put no more men to work upon that contract unless they are learned in the trade of granite cutting when they arrive at the prison. The men who have already been taught the trade you may retain upon the contract.

Withington & Cooley Contract.

There is no question but that this contract involves the teaching of a mechanical trade, but I am informed that there is no competition in this business in this state, and therefore you will be at liberty to put as many men upon this contract as you choose in the future.

Broom Contract.

You are already advised, by the foregoing decision, that this involves the teaching of a mechanical trade. Under this decision I understand that you will be at liberty to retain such men as are learned in the trade, upon that contract, but you would not have a right to put any new men upon that contract unless they are learned in that trade when they arrive at the prison.

Reed Furniture Contract.

Upon this contract I express no opinion at this time. I will advise you later with reference to it.

Should any other questions arise concerning these matters, I shall be glad to have you call my attention to them.

Very truly yours,

JNO. E. BIRD,

Attorney General.

PRIMARY SCHOOL INTEREST FUND. Money received to be used for payment of *teachers' wages only* and no other purpose.

(a) The money constituting this fund cannot be loaned to any person, firm or corporation;

(b) That in cities such money held by the city treasurer must be kept intact and that no part nor portion thereof can be used to reimburse any other fund nor may such fund be drawn upon either by the city or board of education for current expenses;

(c) That the school officers are absolutely prohibited from using such money in their private business.

It is the duty of the Superintendent of Public Instruction to compel observance of the law.

December 6, 1906.

Hon. Patrick H. Kelley, Superintendent of Public Instruction, "Capitol," Lansing:

Dear Sir—I have your communication of November twenty-eight, in which you state:

"Information has come to this Department that in certain school districts in the state it is proposed by the people in view of the fact that a large sum of primary school interest fund has been apportioned to them that one of the following procedures shall be taken:

(a) That the money be loaned by the district to responsible parties.

(b) That in certain cities the money being held by the city treasurer shall be drawn upon by the city for current expenses.

(c) That the school officers themselves shall use the money in their own business.

I would like your opinion on each of these points, and if school officers have no authority to loan money, nor have cities any authority to draw upon school funds for city expenses, has the Superintendent of Public Instruction authority under the provisions of sections 4639 and 4676 of the school laws to investigate these cases and require that school moneys shall be used in strict accordance with the provisions of the statute?"

The purpose for which the primary school interest fund may be used is expressly set forth in the statute. Section 4676 of the Compiled Laws of 1897, provides, in part:

"And no moneys received from the primary school interest fund, nor from the one-mill tax, except as provided by law, shall be appropriated to any other use than the payment of teachers' wages."

Act No. 131 of the Public Acts of 1875, being Sections 1197-1204 of the Compiled Laws of 1897, being "An act to provide for the safe keeping of public moneys," is applicable to school officers. Section 2 of this act requires the officer to keep public moneys separate and apart from his own and not to commingle the same with his own money, nor with the money of any person, firm or corporation.

Section 3 of said Act provides that:

"No such officer shall under any pretext use, nor allow to be used, any such moneys for any purpose other than in accordance with the

provisions of law; nor shall he use the same for his own private use, nor loan the same to any person, firm, or corporation without legal authority so to do."

In accordance with the above language no school officer has any right to use any moneys constituting the primary school interest fund for his own private use, nor loan the same to any person, firm, or corporation, unless express authority to do so is granted by statute.

My attention has not been challenged to any provision of statute authorizing a school officer or the members of a district to exercise such authority, and any attempt to do so would constitute an unwarranted act.

It is, therefore, my opinion that:

(a) The money constituting the primary school interest fund cannot be loaned to any person, firm or corporation.

(b) That in cities such money held by the city treasurer must be kept intact and that no part nor portion thereof can be used to reimburse any other fund nor may such fund be drawn upon either by the city or board of education for current expenses.

(c) That the school officers are absolutely prohibited from using such money in their private business.

The foregoing must not be construed to mean that a city treasurer or the treasurer of a district has no authority to deposit school funds in a reliable bank. I believe it to be the duty of such officers to deposit school moneys in reliable banks, which will pay interest thereon, which interest shall constitute a part of the general fund of the school district.

In regard to the authority of the Superintendent of Public Instruction to investigate such cases as are referred to in your communication and to require that school moneys shall be used in accordance with the provisions of the statute, would say that the statute expressly vests such authority in you.

Section 4639 of the Compiled Laws of 1897, as amended in 1905, relative to the duties of the Superintendent of Public Instruction, provides, in part, that:

"In his supervision of the public schools, it shall be his duty to require boards of education to observe the laws relating to schools and to compel such observance by appropriate legal proceedings instituted in courts of competent jurisdiction by direction of the Attorney General."

The above language, in itself, is sufficient to authorize you to require of all school officers that school moneys shall not be used for any purpose except that expressly set forth in the statute.

Very respectfully,

JNO. E. BIRD,
Attorney General.

TAX LAW. Delinquent taxes, fee of four per cent added for collection should not be retained by county treasurer and the proper authority would be warranted in demanding the return of this money.

December 18, 1906.

Hon. Albert B. Cook, Owosso, Michigan:

Dear Sir—I have your communication of December 18th, in which you state that it has been the custom of your county treasurer to retain the four per cent fee which the law provides shall be added for the collection of delinquent taxes. You ask for my opinion as to the best action for the county to take in the premises. You also ask if the fact that this four per cent was taken within some certain number of years would signify.

Replying thereto would say, undoubtedly the proper authority would be warranted in demanding the amounts of those persons whom it is claimed have unlawfully retained moneys which should have been turned into the county treasury If, after demand, the amounts are not paid into the county treasury, suit should be instituted against the persons and their bondsmen.

The fact that the books are not audited back of January 1st, 1901, renders it unnecessary to pass upon the other question presented.

The enclosures, containing a report of the auditing company, are herewith returned.

Very respectfully,
JNO. E. BIRD,
Attorney General.

TAX LAW. Assessment against the Craig Oil Company by the state board of assessors, Sec. 4, Act 282, P. A. 1905, which requires the board to make an annual assessment of railroad and certain other companies and also of "all other corporations owning, leasing or operating any freight, stock, refrigerator or any other cars," etc., the Auditor General is not at liberty to ignore the assessment and must proceed to demand the tax fixed in the tax roll.

December 19, 1906.

Mr. B. A. Hayes, Attorney at Law, Toledo, Ohio:

Dear Sir—Your letter of the first instant to the Auditor General of the state has been referred to this Department.

For answer thereto, would say that the assessment against the Craig Oil Company was made by the State Board of Assessors pursuant to the duty imposed upon said board by Section 4 of Act 282 of the Public Acts of 1905, which requires the board to make an annual assessment, upon an assessment roll to be prepared by it, of the property having a situs in this state, as in said act defined, of railroad and certain other companies, and also of "all other corporations owning, leasing, run-

ning or operating, any freight, stock, refrigerator, or any other cars, not being exclusively the property of any railroad company paying taxes upon its rolling stock under the provisions of this act, over or upon the line or lines of any railroad or railroads in this state."

The assessment of the property of the Craig Oil Company was duly made by said board and taxes levied upon the property so assessed. In view of the express authority to assess the property of this company, conferred upon said board by the terms of the statute above referred to, and the presumption that obtains in favor of the constitutionality of the statute and the regularity of the action of the State Board of Assessors, I cannot advise the Auditor General that he is at liberty to ignore the assessment of the property of this company made by said board and relieve the company from the payment of the taxes which the warrant in his hands commands him to collect. If the company believes that the assessment and taxation of this property under said Act by the State Board of Assessors is illegal, it may assert such illegality as a defense to proceedings instituted for the collection of the tax.

Very respectfully yours,
JNO. E. BIRD,
Attorney General.

RAILROAD LAW. Railroad companies operating any railroad and which has received aid in its construction from private individuals along its line, must run at least one passenger train, each way, every week day, which train shall not be used for transporting freight. The Traverse City, Leelanau & Manistique R. R. Co., now operated by the Union Trust Co., as receivers, must provide train service in accordance with the law.

December 19, 1906.

Union Trust Company, Detroit, Michigan:

Gentlemen—The Commissioner of Railroads has referred to this Department the matter of complaint against the Traverse City, Leelanau & Manistique Railroad Company, now operated by the Union Trust Company as Receiver, for failure to provide passenger train service in accordance with the provisions of Section 6270 C. L. 1897; also the request of Mr. Hance, Vice-President of the Union Trust Company, that he be given an opportunity to be heard regarding the complaint before any steps are taken by the state officers to enforce compliance with this provision of the statute.

Upon due consideration of the matter, I am impressed with the idea that whatever might be urged by the receiver upon a hearing by way of excuse for non-compliance with the statute could not alter the attitude of the state toward the railroad company and the receiver. The law in plain terms requires every railroad company owning or operating any railroad wholly or partly within this state, and which has received aid from private individuals along its line of road in the construction of the same, to maintain and run at least one passenger train

each way over that portion of its road within this state every week day, unless prevented by accident or the elements, which train shall not be used for the transportation of freight, except express or baggage freights, etc. It is represented by the Commissioner of Railroads that private aid contributed to the construction of the Traverse City, Leelanau & Manistique Railroad, and that the company violates this provision of the statute by *failing* to run a train exclusively for the transportation of passengers, the train that is run being a combination passenger and freight train. I do not understand that there is any claim on the part of the receiver that it is prevented from running regular passenger trains by accident or the elements. The receiver, in operating the railroad, is required to operate the same in the manner required by the laws of the state. Under the circumstances I cannot advise the company or the receiver that compliance with the plain provisions of the law is not required.

Very respectfully,
JNO. E. BIRD,
Attorney General.

INSURANCE LAW. Northern Assurance Company, articles of association state the purpose of organization in too general terms; the form or forms of insurance proposed must be set forth specifically but this would not preclude the addition of other forms in the future by amendment.

Adrian, Mich., December 27, 1906.

Hon. Fred H. Aldrich, Detroit, Michigan:

My Dear Sir—I am in possession of yours enclosing articles of association of the Northern Assurance Company of Michigan. I am impressed that the following clause in Article third which sets out the purpose of the organization is too general, "Of every insurance pertaining thereto." It is true this is the language of the statute, but I think a fair inference is that the legislature through inability to name all kinds of insurance and meaning to provide for different kinds of insurance, that would arise in the future, provided this general provision, but I can hardly think that they intended that it should be unnecessary to specify such particular forms of insurance as any company might determine to write. In other words, the state says that you may write any and all kinds of insurance upon the lives of individuals, but you must set out in the object of the corporation such form or forms as you desire to write. I take it that the idea back of having the object set out in the articles of association of a company is for the purpose of determining what is and what is not within its power, and if it is proper to state the object in such general terms, then the reason for requiring the object to be set out would seem to be of little force. I think you should state specifically what kinds or forms of insurance you in-

tend to write, and of course this would not preclude you from adding other forms in the future by amendment if you chose so to do.

Very truly yours,

JNO. E. BIRD,

Attorney General.

OFFICES OF U. S. DISTRICT JUDGE AND REGENT OF THE U. OF M., may be held by the same person. Nothing in Michigan or United States constitution to prevent it.

January 11, 1907.

Hon. Loyal E. Knappen, U. S. District Judge, Grand Rapids, Michigan:

My Dear Judge—Many things have intervened to prevent my replying to your letter of December eighteenth, with reference to your holding the office of Regent of the University notwithstanding your position upon the District Bench.

I have carefully considered it, however, and have examined the Michigan Constitution, also the Federal Constitution, and I am unable to see anything therein which would prevent or make it improper. I have been unable to find any statute which would make the holding in anywise incompatible.

From the standpoint of the fitness of things, I can see no good reason why you should not retain the position as Regent. In fact I can see many reasons why it would be very proper for you to continue it. It occurs to me that the most that could be suggested would be, in the event of any litigation with the University, in your court, you would be disqualified. This is not unusual, as matters frequently arise in all courts which disqualifiy certain judges from sitting. The possibility that such litigation might arise, furnishes no reason why you should surrender this office. My conclusion is, therefore, that it will not only be lawful, but it will be very proper, for you to remain upon the Board of Regents.

With best wishes for your success, I am,

Very respectfully yours,

JNO. E. BIRD,

Attorney General.

GAME AND FISH LAW. Raising trout to sell, as a business. A pond wholly on private property but connected with a trout stream would not be private in the sense contemplated by the law, therefore the owner of the pond would have no right to impound the trout or to ship them out of the state. If the waters in which the fish are propagated are wholly private, the state board of fish commissioners could issue license to take and ship these fish.

January 11, 1907.

Mr. Edwin J. Marshall, Attorney at Law, Toledo, Ohio:

Dear Sir—I am in receipt of your letter of the twenty-seventh ultimo, in which you state that, "A resident of Michigan, owning land on a trout stream, which under your law is navigable water, desires to go into the business of raising trout. I understand that he owns a pond which is wholly on his land and connected by a little brook with the stream." You desire to know if he may impound such fish as run into the pond and ship them out of the state alive, to supply trout clubs.

Under the decision of the supreme court, in the case of People v. Horling, 137 Mich. 406, the pond in question being so connected with public waters that fish can pass in and out, the water would not be private, in the sense contemplated by our fish laws. Sections 415 and 416, Game and Fish Laws (Sections 5805 and 5806, Compiled Laws of 1897) prohibits the shipment out of the state, of fish or game "the killing of which is at any time or at all times prohibited by law." The catching or taking from any lake, river or stream in this state, "by any means whatever, any speckled trout, land-locked salmon, grayling, California trout, Loch Leven trout or steel head trout, from the first day of September in each year until the first day of May, following thereafter," is prohibited by Section 25 of the Game and Fish Laws (Section 5861, Compiled Laws of 1897).

It seems clear, therefore, that a party having a pond upon his premises such as you describe would have no right to impound the trout that run into the pond and ship them out of the state.

You also desire to know whether he may sell and ship out of the state any trout that he raises on his own premises.

If the trout are raised in a pond which opens into public waters, so that fish can pass in and out, he would have no greater right to take and ship them out of the state than he would those just above described. If, however, the waters in which the fish are propagated are private waters, the State Board of Fish Commissioners could issue him a license to take and ship these fish, under the conditions prescribed in Act No. 170 of the Public Acts of 1905 (Sections 42 to 47, State Game and Fish Laws).

I enclose you, under separate cover, a copy of the Game and Fish Laws, so that you can examine fully the provisions above mentioned.

Very respectfully yours,

JNO. E. BIRD,
Attorney General.

LAND LAWS. Application made for the issuing of a patent for land. The original certificate was issued Nov. 5, 1838. Several assignments of same, were made prior to last assignment under date of May 30, 1854. At the time of the death of the holder of this certificate, a considerable portion of the amount still due the state had not been paid. Proceedings were had in probate court, and all right, title and interest of deceased, in lands as described were sold. The purchaser thereof, then deposited with Commissioner of State Land Office the full amount due the State under said certificate. It would be the duty of the Governor, to issue a patent to the present holder of the certificate.

January 11, 1907.

Hon. William H. Rose, Commissioner of the State Land Office, Lansing, Michigan:

Dear Sir—I have examined the application made for the issuing of a patent for lands described in primary school land certificate No. 561. I have also given careful consideration to a communication, addressed to you by the Hon. George A. Prescott, Secretary of State, in relation to this matter.

It appears that the original certificate No. 561 was issued by the Superintendent of Public Instruction to William Thompson of Oakland county, Michigan, under date of November 5th, 1838, the lands described being the southwest quarter of section sixteen (16), township three (3) north, range eleven (11) east. I note the fact that there are several assignments of this certificate prior to 1854, the last assignment being to Harris Newton, under date of May 30, 1854. From a record of certain probate proceedings, attached to the papers submitted by you, it appears that Harris Newton died, without having assigned said certificate, and at the time of his death a considerable portion of the amount due to the state, under said certificate, had not been paid. Proceedings were had in the probate court for the sale of all the right, title and interest which the deceased had in the land described in said certificate, pursuant to Section 1517 of the Compiled Laws, and all the right, title and interest which the deceased had in the lands described in said certificate were sold to Anthony D. Corwin. Under recent date, the said Anthony D. Corwin deposited with the Commissioner of the State Land Office, as required by law, full amount due the state, under said certificate.

Under this state of facts, you wish to know to whom the Governor should issue a patent for the lands described.

The Secretary of State seems to take the position that the Governor should issue patent to Harris Newton, to whom the last assignment was made in his lifetime, under Section 1516 of the Compiled Laws, which section reads as follows:

"That whenever any purchaser, or assignee of any purchaser, shall decease before application is made for any patent, such patent (if such lands are paid for) shall be issued in the name of such deceased person, and shall have the same effect as though it had been issued during the lifetime of such person."

It is clear in my opinion that the Secretary of State is in error in this particular. The provision of the law above quoted unquestionably relates to the issuance of a patent where the holder of a certificate had paid for lands in full, but died prior to the issuance of such patent. In such case, the patent would issue in the name of the deceased, and the land become a part of his estate, to be administered according to law.

I am also of the opinion that, in order to have the patent issue in the name of the deceased, it is not essential that the full amount due the state, under such certificate, be paid prior to his decease, but that the legal representatives of the estate might make such payment pursuant to an order of the probate court, when patent would issue and vest in the estate the legal title. This section of the law, however, has no application to the state of facts to which you call my attention. In the case you present, all right, title and interest, which the deceased or his estate had in or to said certificate of the lands herein described, have been parted with in a manner provided for by statute.

Section 1515 provides for the issuance of a patent by the Governor to the assignee of any such certificate, and designates the manner in which such assignment is to be made.

Section 1517 provides for the sale of such certificate and of the right, title and interest which the deceased had in the lands described in such certificate, pursuant to an order of the probate court, and in the case under consideration such sale was made for the purpose of paying debts of the estate. A purchaser, under this section, upon payment in full of the amount due, would be entitled to a patent, vesting in such purchaser the legal title to the land. The administrator or executor, as the case might be, of such an estate could lawfully assign such certificate to such purchaser, and the purchaser could assign his rights acquired thereby to some other person, who, upon payment as I have above indicated, would be entitled to a patent.

I call your attention to the case of Louden vs. Martindale, 109 Mich. 235, where the supreme court, in its opinion, indicates the correctness of the views I have expressed.

I would, therefore, say that, under the facts outlined, it would be the duty of the Governor to issue a patent to Anthony D. Corwin.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

DAIRY AND FOOD LAW prohibits the use of the word "Butterine" in advertising any substance designed to be used as a substitute for butter.

January 17, 1907.

Mr. Henry Veeder, Attorney at Law, 240 Lasalle St., Chicago:

Dear Sir—Your letter of the twenty-sixth ultimo duly received, in which you ask whether the laws of this state permit the use of the word "Butterine" in advertising that product in this state.

For answer thereto would say that Section 4 of Act No. 147 of the Public Acts of 1899, provides that:

"No person shall use in any way, in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for butter, the word "Butter," "Creamery" or "Dairy," or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combinations thereof commonly used in the sale of butter."

Section 6 of the Act provides that certain manufactured substances shall thereafter be known and designated as oleomargarine, namely, all substances theretofore known as oleomargarine, oleo, oleomargarine oil, butterine, etc.

These sections of the statute, construed together, in my opinion prohibit the use of the word "butterine" in advertising that product for sale within this state.

The product "butterine" is unknown to the laws of this state, the law expressly requiring that it shall be designated "oleomargarine." The inconsistency in so construing the law as to permit the use of the word "butterine," in advertising that product, when the law expressly provides that it shall be designated as "oleomargarine," is apparent.

We are informed by the Dairy and Food Commissioner that immediately after the enactment of the law it was construed by the then Dairy and Food Commissioner, acting under the oral advice of the then Attorney General, to prohibit the use of the word "butterine," in advertising the product in the state, and that since that time this construction has been uniformly adhered to by the Dairy and Food Department.

Respectfully,
JNO. E. BIRD,
Attorney General.

TOWNSHIP LIBRARY DIRECTORS.

1. The law gives the township library board the same power as are conferred upon the boards of directors of free public libraries in cities and by inference requires of them similar duties.

2. All officers having custody of public records, including those of township public libraries, should furnish proper facilities for their examination. A township or other public corporation can have no private records, not open to inspection of its citizens.

3. The law prohibiting public officers to contract and furnish supplies to the public, although not specifically applying to the board of directors of a township library, would presumably be construed to include such township officers.

Lansing, January 24th, 1907.

Mr. W. H. S. Wood, Howell, Michigan:

Dear Sir—Your communication of recent date at hand and contents noted. You ask:

First: If Section 3455, Compiled Laws of 1897, applies to town-

ship library directors organized under later section of same act, 164 of 1877.

Second. If Section 3461, Compiled Laws of 1907, as amended by Act 76, Public Acts of 1903, applies to a township library board.

Third. If the provisions of law prohibiting public officers to contract and furnish supplies to the public, acting on their own bills, applies.

In answer to your first inquiry, would say that Section 3459, Compiled Laws of 1897, as amended by Act 67, Public Acts of 1905, gives to the township library board the same powers as are, by this act, conferred upon a board of directors of free public libraries in cities. It is our opinion that the legislature, in conferring upon the township library board all powers given the board of directors of free public libraries in cities, intended that the township library board should perform similar duties to those expressly required to be performed by the board of directors of free public libraries in cities.

In regard to your second question, would say that Act 76 of the Public Acts of 1903, requires all officers having custody of any county, city, township, town, village, school district, or other public records, to furnish proper and reasonable facilities for the inspection and examination of the records and files in their respective offices. We think it was clearly the intent of the legislature to include in this provision all public records of the township, which would embrace the records of the township library, for the reason that the township can have no private records.

Our supreme court, in the case of Burton vs. Tuite, 78 Mich., at page 372, speaking of certain records kept in the office of the receiver of taxes, and in the office of the city treasurer of the city of Detroit, said:

"They are, therefore, books used and kept in two of the public offices in the city of Detroit, and they must be considered public records. The claim that they are private books of account is absurd. They are neither the private books of the receiver of taxes, or of the city treasurer, and the *city of Detroit, a public municipal corporation, can have no private books, not even of accounts, not open to the inspection of its citizens.* Its doings, and the doings of its officers, and the records and files in their offices, must be open to the public."

At page 374, the court says:

"I do not think that any common law ever obtained in this free government would deny to the people thereof their right of free access to, and public inspection of, public records. They have an interest, always, in such records, and I know of no law, written or unwritten, that provides that, before an inspection or examination of a public record is made, the citizen who wishes to make it must show some special interest in such record."

In regard to your third inquiry, would say that we know of no statute which specifically applies to the board of directors of a township library. However, we would refer you to the case of the People vs. the Township of Overyssel, 11 Mich., 222, in which our supreme court held that a public officer cannot reap a personal advantage from any official act

performed in favor of himself and that contracts taken by public officers to perform work for the municipality of which they were officers were void.

Very respectfully,
JNO. E. BIRD,
Attorney General.

TOWNSHIP ROAD SYSTEM.

1. The road commissioners should be paid such compensation as township board shall authorize, out of township road fund.

2. The township board shall designate the roads and bridges to be built, or maintained under this system. Over these the road commissioner shall have full jurisdiction, to oversee the construction, repairs or improvements.

3. "The township board shall fix the compensation of said commissioners."

January 24, 1907.

Mr. C. W. Tallant, Shelby, Michigan:

Dear Sir—Your communication of the fourth instant received. You state that several years ago your township adopted the township road system as provided by Section 4287 of the Compiled Laws of 1897, and inquire:

1st. "Should the commissioners be paid by the township board out of the contingent or township fund, or should they pay themselves out of the road system fund?"

Section 4281 of the Compiled Laws of 1897, contains this provision:

"All moneys raised under the provisions of this act shall be expended by said board of county road commissioners exclusively for the purposes herein mentioned."

Under Section 4287 this provision is made applicable to the townships adopting the township road system as prescribed in this act. (Act No. 149 of the Public Acts of 1893, Sections 4262 to 4290 of the Compiled Laws of 1897.)

Among the purposes mentioned in the act is the following, contained in Section 4269 of the Compiled Laws of 1897:

"The board of supervisors shall fix the compensation of said commissioners."

We are of the opinion, therefore, that the payment of the salary of the commissioners is one of the purposes contemplated in the act, and that, therefore, these commissioners should be paid such compensation as the township board shall authorize, out of the township road fund.

2nd. "Are the commissioners allowed to take charge of any work in the capacity of overseer?"

This statute provides, in Section 4287, that the township board shall designate, by resolution, the roads and bridges that shall be built or maintained under this system. Over roads and bridges so designated, the road commissioner would have full jurisdiction to oversee the construction, repair and improvement. (See Section 4280 of the Compiled

Laws of 1897.) Over all other roads they would be without jurisdiction.

3rd. "How is their compensation fixed?"

Section 4287 provides for the substitution of "township board" for "board of supervisors," where the system is adopted by a township, and the provisions of Section 4269 would then read, as applied to the township, "The township board shall fix the compensation of said commissioners."

Very respectfully yours,
JNO. E. BIRD,
Attorney General.

GUARDIANSHIP OF CHILD. "Every father may by his last will in writing appoint a guardian for any of his children, whether born at that time or afterwards." Sec. 8706, C. L. 1897.

January 24, 1907.

The Century Company, Union Square, New York:

Sirs—I am in receipt of your letter under date of January eighteenth, making inquiry whether there is a law in Michigan permitting a man to will away the custody of his child, even though the child is unborn at the time the will is made.

I understand your question to be equivalent to asking whether a person may designate by will a guardian for his child, even though the child is unborn at the time the will is made. If I am correct in this assumption, I respectfully direct your attention to the following section of our Compiled Laws of 1897 (Section 8706).

"Every father may, by his last will in writing, appoint a guardian or guardians for any of his children, whether born at the time of making the will or afterwards, to continue during the minority of the child, or for any less time, and every such testamentary guardian shall have the same powers and shall perform the same duties with regard to the person and estate of the ward as a guardian appointed by the judge of probate * * *."

Then follow some other provisions with reference to bond, etc., for the purpose of carrying this statute into effect.

Trusting that this will be a satisfactory answer to your inquiry, I am,

Very truly yours,
JNO. E. BIRD,
Attorney General.

COMPENSATION OF COMMITTEE OF SUPERVISORS. Board of supervisors of Chippewa county has no authority to vote additional compensation to a committee of the board "for inspection and superintending on court house."

January 25, 1907.

Mr. John E. Parsille, County Clerk, Sault Ste. Marie, Michigan:

Dear Sir—We are in receipt of your letter of the 3rd ult., enclosing copy of a resolution of the board of supervisors of your county, and requesting an opinion as to the right of the board of supervisors to vote additional compensation to a committee of the board for "inspection and superintending on court house."

The resolution, after conferring authority upon the committee to advertise and let contracts for construction and alteration of the court house and to superintend the construction thereof, provides:

"For all such time as the members of said commiittee actually and necessarily devote to the duties of their office, they shall receive the usual compensation per diem, and for mileage as is allowed for attendance upon this board."

Act 237 of Public Acts of 1905, after prescribing the compensation of members for attendance upon board meetings, states that:

"Said amount shall be in full for all services rendered and expenses in attending the meetings of such board of supervisors, and for all services and expenses incurred while acting upon any committee of said board of supervisors during the session of the board; and any supervisor receiving further or other compensation for such services shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars * * * . Provided that nothing herein contained shall be construed so as to in any way repeal other acts providing for compensation to members of boards engaged in committee work * * * ."

There are local acts applying to several counties which authorize the allowance of a limited sum to members of the board engaged in certain committee work, and it is to these local acts that the above proviso undoubtedly refers. So far as we have been able to ascertain, there is no such local act applying to the county of Chippewa.

We are, therefore, of the opinion that the state of facts submitted by you is clearly within the case of Ewing v. Ainger, 97 Mich. 381, in which the court says:

"We think, instead of the statute's being construed as prohibiting any supervisor from taking pay as a member of a committee while the board is in session, it was intended to fix the amount of compensation for committee work while the board is actually in session, and to prohibit the taking of compensation by supervisors for committee work while the board is not in session. The statute provides a compensation of three dollars per day for services and expenses in attending meetings of the board, and six cents a mile for each mile traveled in going to and returning from the place of meeting. It also limits the time to twelve days for any regular session and six days for an adjourned session, and

three days for any special session; and this, at three dollars per day, to be in full for all services and expenses in attending meetings of the board, and all services and expenses while acting upon any committee of the board during its session. But for the words 'during the session of said board,' it is evident that supervisors who were absent from the board upon committee work, during the session of the board, could not be compensated, and the words 'during the session of said board' provide for such compensation, but cannot be said to authorize the payment for committee work while the board is not in session, as claimed by the Attorney General.

It is said that members of the boards of supervisors are called upon to do extra work while the board is not in session, such as acting upon building committees, etc. This may be true, and, if payment should be made for such services, the legislature may provide therefor; but it has not done so by this statute. The fact that the several boards of supervisors have put a different construction upon the statute does not affect the question of its true construction. We are satisfied that the interpretation we gave it in the former opinion is correct, and a rehearing must be denied."

So far as affects the question submitted by you, the statute involved in the case of Ewing v. Ainger is identical with Act 237 of the Public Acts of 1905.

We are, therefore, of the opinion that under this decision the board of supervisors has no authority to vote additional compensation to a committee of the board for services rendered in the superintendence and construction of a court house.

Very respectfully yours,
JNO. E. BIRD,
Attorney General.

INSURANCE LAWS. Soliciting for insurance in a mutual fire insurance company in process of organization in another state is unauthorized by the laws of Michigan. Certificates of authority can only be issued to agents of insurance companies admitted to do business in this state.

January 29, 1907.

Hon. James V. Barry, Commissioner of Insurance, "Capitol," Lansing:

Dear Sir—I am in receipt of your communication of the twenty-third instant, requesting an opinion upon the question of whether or not a person may solicit, in this state, applications for insurance in a mutual fire insurance company, the company, at a latter date, to be incorporated under the laws of the state of Indiana, and intending to enter this state when its organization is perfected.

For answer thereto, would say that, under the laws of this state, it is unlawful for any person or persons, as agent, solicitor, surveyor, broker, or in any other capacity, to transact or to aid in any manner, directly or indirectly, in transacting or soliciting within this state any insurance business for any person, persons, firm or copartnership who

are non-residents of this state, or for any fire or inland navigation insurance company or association, not incorporated by the laws of this state, or to act for or in behalf of any person or persons, firm or corporation, as agent or broker, or in any other capacity, to procure, or assist to procure, a fire or inland marine policy or policies of insurance on property situated in this state, for any non-resident person, persons, firm or copartnership, or in any company or association without this state whether incorporated or not, without procuring or receiving from the commissioner of insurance the certificate of authority provided for in Section 23 of Act No. 136, of the Laws of 1869. (Section 5157, Compiled Laws of 1897.)

Pursuant to the provisions of Section 23 of the Act of 1869, such certificate of authority can only be issued to the agents of such insurance companies as have been admitted to do business in this state.

In view of these provisions of the statute, it is my opinion that the solicitation of applications for insurance in a company in process of organization in another state is unauthorized.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

FEES AND MILEAGE OF SHERIFF IN CRIMINAL CASES.

1. For serving a subpoena on one and on several witnesses, mileage, etc.
2. When witnesses are subpoenaed for several cases.
3. For serving a warrant, or other process for arrest, mileage, etc.; return expenses.
4. For persons committed to jail, and for persons discharged from jail.

Where the jail is near to the court house the sheriff is not entitled to per diem for taking prisoners to court. If the jail is at some distance from the court house, the sheriff would be entitled to draw mileage.

January 30th, 1907.

Mr. W. C. Spencer, South Haven, Michigan:

Dear Sir—I have carefully considered the questions submitted by you which I understand relate to the fees of the sheriff in criminal cases to be paid by your county. The questions submitted are as follows:

1st. What fees is the sheriff entitled to for serving a subpoena on one witness and on several witnesses living in the same locality?

2nd. And does the fact that the several witnesses are for different cases, if all served at one trip, increase the amount of fees he is entitled to?

3rd. What fees is the sheriff entitled to for serving a warrant, and is he entitled, where making three arrests in the same locality, to ten cents return travel in each case, and what mileage is he entitled to for the going trip?

4th. What fees is the sheriff entitled to for lockage fees or turnkey fees?

5th. Is the sheriff entitled to per diem when taking a prisoner to court, when the prisoner pleads guilty?

In answer to these questions in the order set forth above, would say:

1st. That the fees to which a sheriff is entitled for serving a subpoena are prescribed in Section 12006 of the Compiled Laws of 1897, which provides in part:

"For serving a subpoena issued from a court of record fifteen cents for each witness and ten cents for each copy of the same and ten cents a mile on the distance actually and necessarily traveled in going to make such service."

The amounts named in the above quotation fixes the fees for serving one subpoena. If a number of witnesses live in the same locality the sheriff would be entitled to fifteen cents for each witness subpoenaed and ten cents for each copy of the subpoena and traveling fees, going only, for the witness living farthest away.

2nd. The fact that several witnesses are subpoenaed for different cases furnishes no reason for changing the rule above set forth.

3rd. The fees to which the sheriff is entitled for serving a warrant are prescribed in Section 12005 of the Compiled Laws of 1897, which provides in part:

"For serving a warrant or other process for the arrest of any person, issued by any magistrate or court, fifty cents; for traveling to make such service, going only, ten cents per mile, and where an arrest has been made, ten cents per mile return travel from the place of arrest to the place of return."

In accordance with this language the sheriff is entitled to fifty cents for the service of a warrant and ten cents per mile, going only, and if he makes an arrest he is entitled to ten cents per mile from the place of arrest to the place of return. He is also entitled, even though he makes but one arrest, to the expenses necessarily incurred in returning the prisoner. Where he makes three arrests in the same locality he is entitled only to ten cents per mile return traveling fees, but he is entitled to be re-imbursed for the expenses actually and necessarily incurred in returning the persons arrested, regardless of whether he makes one arrest or a number.

4th. Section 12006 provides that for every person committed to jail the sheriff shall receive thirty-five cents, and for every person discharged from jail, thirty-five cents. This refers only to the beginning and end of the term of imprisonment and does not entitle the sheriff to fees for taking a prisoner to court and returning him to the jail.

5th. It is my opinion that where the jail is in close proximity to the court house that the sheriff is not entitled to per diem for taking a prisoner to court when the prisoner pleads guilty. In such case the question seems to be settled by Lee vs. Supervisors, 68 Michigan, 330; and Chapman vs. Wayne County Auditors, 127 Michigan, 495. If, however, the jail is some distance from the court house, undoubtedly the sheriff would be entitled to mileage.

In regard to your right to receive additional compensation while acting as a committee authorized by the Board of Supervisors, I am en-

closing herewith an opinion to Mr. John E. Parsille which passes upon the identical question submitted by you.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

CONSTITUTIONAL PROVISIONS AS TO TEACHING MECHANICAL TRADE TO CONVICTS. Binder twine plant at Michigan state prison; no constitutional prohibition to prevent establishment and it is a question of financial policy rather than a legal question as conditions might be so changed that principal supply of binder twine would not be imported from other states, etc., and then upon a proper showing to a court an injunction might issue to stop the operations of the plant in view of Sec. 3, Art. XVIII of the constitution.

Adrian, Michigan, February 15, 1907.

Hon. Archibald Peek, Michigan Senate, Lansing, Michigan:

My Dear Sir—I am in receipt of yours of the fifth, informing me of your interest in prison matters in your home city, and asking me if I have advised that there is constitutional objection in the way of the legislature establishing a binder twine plant in the Jackson prison.

In reply will state that I have not so advised. No constitutional objection occurs to me against installing such a plant in the prison. What I have advised is that conditions may so change within two years after its establishment that the state will be prevented from operating it. This situation is made possible by the constitutional provision that: "No mechanical trade shall hereafter be taught to convicts in the state prisons of this state, except the manufacture of those articles of which the chief supply for home consumption is imported from other states or countries." (Michigan Constitution, Art. 18, Sec. 3.)

At the present time the chief supply of binder twine is imported from other states. I am informed that we consume, annually, in this state, about 5,000,000 pounds of twine. Less than 1,000,000 pounds are now manufactured in this state. But suppose the legislature should install a plant, at a cost of $200,000, and within two years the International Harvester Company, or some other company that manufactures twine, should also install a plant in this state and increase the output to 4,000,000 pounds. When this becomes a fact, and a competitor can make it clear to a court, an injunction will issue against the state compelling it to refrain from making twine, as it did recently from making brooms, and our plant would then be idle and our investment of $200,000 without value.

You will perceive, at this stage it is a question of financial policy rather than a legal question.

Suppose this was a private enterprise of like character, with an assurance of 20 per cent annual dividend, and purchase of the stock

could be made at 50 per cent of the par value, but with the prospect that within two years the plant would be shut down by the mandate of a court, how much of the stock would you subscribe for? I assume that you would refuse to put your money into such a precarious enterprise; and if you would refuse to put your own money into it, can you conscientiously put the state's money into it?

Let me suggest that the legislature submit a resolution to the People, at the coming spring election, to repeal this constitutional provision, and if the People should vote to repeal it, then you could go forward and appropriate the money to install the plant, without danger of serious loss to the state.

I have said more than was necessary to answer your question, because I so fully realize and regret the great disadvantage the state is at on account of this constitutional inhibition in providing employment for its two thousand convicts.

Very respectfully yours,
JNO. E. BIRD,
Attorney General.

REGENTS OF THE UNIVERSITY OF MICHIGAN, have the power to take, hold and convey real estate. They are created a body corporate by the constitution and it is a general principle of law, applicable to the U. of M., that corporations have power to take and hold real estate as well as personal property when necessary, and the Auditor General should audit the vouchers for the purchase of the real estate mentioned.

February 21, 1907.

Hon. James B. Bradley, Auditor General, "Capitol," Lansing:

Dear Sir—I am in receipt of your favor of the eighth instant, in which you make reference to certain vouchers from the University of Michigan for moneys expended by the Board of Regents for real estate in the city of Ann Arbor, and request the opinion of this Department as to whether these vouchers can properly be audited by you.

The sole question involved in your inquiry is, whether or not the purchase by the Board of Regents of the real estate mentioned in the vouchers is ultra vires.

The Regents of the University, and their successors, are, by the Constitution, created a body corporate. (Constitution, Art. XIII, Sec. 7.) They have the general supervision of the University and the direction and control of all expenditures from the University Interest Fund. (Constitution, Art. XIII, Sec. 8.) Act No. 102 of the Public Acts of 1899, provides that the quarter-mill tax shall be "paid by the state treasurer to the Board of Regents of the University in like manner as the interest on the University Fund is paid to the treasurer of said board." The provisos in the act do not refer to the purchase of real estate.

It is a well recognized general principle of law that corporations,

in the absence of constitutional or statutory restrictions, have the power to take and hold such real estate as shall be reasonable and necessary for the purposes of their creation.

In the case of Regents v. Detroit Young Men's Society, 12 Mich. 138, Mr. Justice Christiancy says:

"The power of taking and holding real estate, as well as personal property, is generally laid down as one of the powers incident to every corporation, unless there be an express prohibition, or such power be clearly repugnant to the purposes of its creation, or forbidden by some positive law: * * * . And the power of this corporation to take, hold, and convey real estate, for any purpose clearly tending to promote the interest of the university, to increase its funds, or otherwise to further the great public objects for which the corporation was created, cannot, I think, admit of a reasonable doubt."

The Board of Regents are given absolute control over the University Interest Fund and subject to the provisos of Act No. 102 of the Public Acts of 1905 are given like control over the quarter-mill tax. The presumption of law is in favor of the power of a corporation to take and hold land, until the contrary is made to appear, and if a corporation is authorized under some circumstances to hold and convey real estate it will be presumed, in the absence of evidence to the contrary, that the real estate which it undertook to convey was held and conveyed in pursuance of its powers. (Cyc. Vol. 10, p. 1135, and cases cited.)

In my opinion the necessity for the purchase of real estate must be determined by the Board of Regents. They have determined this necessity by accepting a conveyance of the property. Under the charter of the University, as construed by the supreme court, they have the right to take, hold and convey real estate.

We are, therefore, of the opinion that the vouchers mentioned in your letter, being for the purchase of real estate, should be audited.

Very respectfully yours,

JNO. E. BIRD,

Attorney General.

INSURANCE LAW. Sun Insurance Office, of London, may insert in its policies a notice to policy holders of the limited liability of the shareholders, covering the "capital, stock, funds and property of the company," only.

February 21, 1907.

Hon. J. V. Barry, Insurance Commissioner, "Capitol," Lansing:

Dear Sir—We have considered the communication submitted by you to us, from H. A. Kelsey, Manager Sun Insurance Office, of London, in which he desires to know whether his company can properly insert the following clause in its policies issued in the state of Michigan:

"Provided, That the capital, stock, funds, and property of the company shall alone be answerable in respect of any claim made under this policy, and the only liability of the shareholders shall be to con-

tribute to the funds of the company the amounts unpaid on the shares held by them respectively."

The following clause is contained in the standard policy provided for by Act No. 277 of the Public Acts of 1905 (Sections 412 to 416, Insurance Laws of 1905):

"If this policy be made by a mutual or other company having special regulations lawfully applicable to its organization, membership, policies or contracts of insurance, such regulation shall apply to and form a part of this policy, as the same may be written or printed upon, attached or appended hereto."

The proviso is in accordance with Section 16 of Article 90, of the regulations of the Sun Insurance Office, as passed by Parliament, July 31st, 1891. There is no provision in the standard policy, nor in our insurance laws, which would make such a provision invalid or ineffective.

It is the opinion of this Department that the clause mentioned can very properly be inserted in the policies issued by this Company, for the purpose of giving notice to the policy holders of the limited liability of the shareholders under its act of incorporation.

Very respectfully yours,

JNO. E. BIRD,

Attorney General.

RAILROAD LAW. The railroad crossing board has authority to determine the place where and the manner in which the track of one railroad shall cross another and this applies as well to private logging railroads.

February 21, 1907.

Hon. C. L. Glasgow, Commissioner of Railroads, "Capitol," Lansing, Michigan:

Dear Sir—With reference to the question submitted by you, relative to the procedure to be followed in constructing a private logging railroad across the tracks of a railroad company incorporated under the general railroad law, I beg to submit the following:

Section 7 of the general railroad law as amended, confers upon the railroad crossing board, therein provided for, authority to determine the place where and the manner in which the tracks of one railroad shall cross another railroad, whether at grade or otherwise, and if at grade, what safeguards shall be provided by the company desiring to make such crossing, to protect against accidents thereat. It also provides that it shall be unlawful for any corporation or *person* to construct any such crossing without the approval of said board. These provisions are, in my opinion, applicable to private logging railroads desiring to construct their tracks across the tracks of railroad companies organized under the general railroad law, and the procedure in such cases should therefore conform to the requirements of this section.

Very respectfully,

JNO. E. BIRD,

Attorney General.

(Enc. letter of Wm. Carpenter.)

CORPORATION LAW. Act 194, P. A. 1905, amending Sec. 12, Act 232, 1903. Annual report need only give "the total value as near as may be estimated of all property owned by the corporation."

February 21, 1907.

Mr. W. S. Kimball, Secretary, Clinton Woolen Mfg. Co., Clinton, Michigan:

Dear Sir—Your letter of the sixteenth instant, relative to the annual report of your company, received and contents noted.

Your attention is called to Section 12 of Act No. 232 of the Public Acts of 1903, as amended by Act No. 194 of the Public Acts of 1905, relative to annual reports.

"Every corporation subject to this act, including every foreign corporation admitted to carry on business in this state under the provisions of this act, shall annually, in the month of January, make duplicate reports showing the condition of such corporation on the thirty-first day of December next preceding, or if the fiscal year of any corporation shall close within ninety days next preceding said thirty-first day of December the report may be of the condition at the close of said fiscal year, on suitable blanks to be furnished by the Secretary of State, as hereinafter provided: * * * . Such reports shall state the amount each of common and preferred capital stock authorized, and the amount thereof subscribed for, and the amount thereof actually paid in, in cash, and the amount thereof paid in property; the total value as near as may be estimated, of all property owned by the corporation; the value of different items or classes of property as follows; real estate used in its business; real estate not used in its business; goods, chattels, merchandise, material and other tangible property; patent-rights, copy-rights, trade-marks, and formulas; good will; and all other property, specifying the kind; value of all credits owing to the corporation; the amount of debts of the corporation; the name and postoffice address of each stockholder and the number of shares of preferred and common stock held by him at the date of such report; the name and postoffice address of each officer and director of the corporation, and such other information as the Secretary of State may require * * * ."

Your attention is called to the penalty provided for not filing a report in accordance with the above provision. The penalty clause reads as follows:

"If any corporation neglect or refuse to make and file the reports required by this section within the time herein specified, and shall continue in default for ten days after the first day of February, its corporate powers shall be suspended thereafter until it shall file such report, and it shall not maintain an action in any court of this state upon any contract entered into during the time of such default; and any director of such corporation so in default, who has neglected or refused to join in the making of such report, shall be liable for all the debts of such corporation contracted since the filing of the last report of such corporation, and shall also be liable to such corporation for any damages sustained by it by reason of such refusal or neglect."

There is no question but that the Secretary of State was in error in accepting your 1905 report showing the condition of your business, March 31st, 1905. We are advised by that office that they were not so strict at that time, for the reason that the law was a new one and most corporations were unfamiliar with its provisions.

You will note that, under the terms of this statute, you are only required to give, "the total value as near as may be estimated, of all property owned by the corporation." It would seem that there should be no difficulty in making a report of this nature.

Very respectfully yours,
JNO. E. BIRD,
Attorney General.

CITY OF THE FOURTH CLASS. City of Eaton Rapids; certain changes desired in the city government to provide for the relieving of agricultural lands within the city limits from special assessments, for local improvements within the city. This may be accomplished by special act of the legislature.

February 21, 1907.

Mr. Charles S. Horner, Eaton Rapids, Michigan:

Dear Sir—In response to your request for an opinion upon certain matters relating to the city of Eaton Rapids, I beg to submit the following:

If it is the desire that the city be governed by the charter under which it operated prior to the time it became a city of the fourth class, this may be accomplished by an act of the legislature re-enacting such charter.

If it is the desire mainly to have the city governed by the provisions of the law relating to cities of the fourth class under which it now operates, and merely to provide for relieving agricultural lands within the city limits from special assessments for local improvements within the city, this may be accomplished by a special act of the legislature applicable to that city alone and expressly providing that such lands within the city limits shall not be subject to special assessments for local improvements. Or the general law governing cities of the fourth class may be expressly amended to provide that in the city of Eaton Rapids such lands shall not be subject to special assessment for local improvements.

Respectfully,
JNO. E. BIRD,
Attorney General.

SCHOOL LAW. Can inspectors form a new school district from two or more districts even though a majority of the voters were not in favor of such change? Sec. 4646 and 4647 C. L. 1897. In method prescribed of forming new school districts, there is no provision for an expression of a majority upon the question. The aggrieved taxpayers within such school districts may appeal to the township board. (Sections 121 to 123 General School Laws.) Justice Campbell, in Clement v. Everest, 29 Mich. 19, says: "Two reasons are given for holding the change of districts void. *First*, that the inspectors were interested; and *second* that they acted without proper notice," but they do not apply to this case.

February 21, 1907.

Mrs. C. A. Skeels, Gladwin, Michigan:

Dear Madam—Your letter of the eighteenth instant received and contents noted.

There is no provision of the general school law which would prevent the school inspectors from forming a new district from two or more districts, even though a majority of the voters were not in favor of such change. The aggrieved taxpayers within such school districts may appeal to the township board, under the provisions of Sections 4743 to 4745 of the Compiled Laws of 1897, (Sections 121 to 123, General School Laws). The statute (Sections 4646 and 4647, Compiled Laws of 1897, Sections 24 and 25, General School Laws), prescribes the method of forming new school districts and makes no provision for an expression of a majority upon the question of whether the change shall be made.

A school inspector is not disqualified from acting, for the reason that he pays more taxes than any other taxpayer. In order to disqualify him, an interest other and different from that of a taxpayer must be shown. I call your attention to the following language of Justice Campbell, in the case of Clement v. Everest, 29 Mich. 19:

"Two reasons are given for holding the change of districts void: *First*, that the inspectors were interested; and *second*, that they acted without proper notice.

There are some cases where the action of interested parties is forbidden by the principles of law. Public officers cannot contract with themselves as individuals, and cannot act judicially upon their own interests. They cannot usually occupy two conflicting relations.

But the interest which these officers had was that of tax-payers and residents, and the business they were engaged in was the public adminstrative business of their districts and township, in which no man could be found who was not interested in a similar way.

The degree of interest is not regarded in cases of disability. Any tangible interest prevails. If interest could prevent men from performing these local duties, they could not be performed at all. The policy of a republican government places all local interests in the hands of the electors most deeply concerned, and requires them to choose interested agents and representatives. The disabling doctrine has no application, and can have none, to those administrative acts which are

public, and not with or between private parties. Such action is the action of the public, for itself and on its own behalf, and there are in law no conflicting interests which can be recognized as belonging to the individual representatives in the official body. We think this objection is unfounded." (Page 21.)

The decision of the supreme court in the case of School Board of District No. 5 v. Hamilton Township, 13 D. L. N. 795, simply holds that the writ of certiorari will not be issued to set aside the action of a township board setting aside the organization of a new school district, where it appears from the return that the granting of the writ will result in injustice.

Whether a school board could commence work for another school district after a decision by the supreme court, would depend upon the questions involved and decided by the opinion of the court.

In accordance with your request, we enclose you copy of the opinion of the court in the case of School Board of District No. 5 v. Hamilton Township, 13 D. L. N. 795.

Very respectfully yours,
JNO. E. BIRD,
Attorney General.

PREMIUMS ON SURETY BONDS. Treasurer of Northern Michigan Asylum; premiums paid on his surety bonds. Act 311, P. A. 1905, provides for payment by the state of the cost of surety bonds furnished by state officers. This act is not applicable to the numerous subordinate officers of state institutions but is limited to state officers commonly so designated. Treasurer of Asylum is not a state officer within the meaning of this act.

February 28, 1907.

Board of State Auditors, "Capitol," Lansing, Michigan:

Gentlemen—I am in receipt of your communication of the 14th instant, enclosing claim of the Northern Michigan Asylum for premiums paid on surety bonds for the treasurer of said asylum, and requesting the opinion of this Department as to whether the same constitutes a claim against the state under Act No. 311 of the Public Acts of 1905, which your board has authority to audit and allow.

For answer thereto would say that the act in question provides for the payment by the state of the cost of surety bonds furnished by state officers.

It is our opinion that it was intended that the application of this act should be limited to state officers commonly known and designated as such, and that it was not intended to apply to the numerous subordinate officers of state institutions and state boards. The treasurer of the asylum is not in my judgment, a state officer within the meaning of this act,, and the claim in question is not therefore one which your board is authorized to audit and allow.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

TRUST COMPANIES. Organized under P. A. 1889. right to invest in the stocks of Savings Banks. No general right of Trust Companies to invest in the stock of other corporations. Not authorized to invest in stock of private corporations.

March 21, 1907.

Hon. Henry M. Zimmerman, Banking Commissioner, "Capitol," Lansing:

Dear Sir—This Department has given careful consideration to your inquiry of the thirteenth instant as to whether Trust Companies organized under Act No. 108 of the Public Acts of 1889 have the right to invest in the stocks of Savings Banks; and particularly to the question as to whether Section 11 of this Act (Compiled Laws of 1897, Section 6166) permits such investment.

It is the opinion of this Department that there is no general right under the laws of this state on the part of Trust Companies to invest in the stock of other corporations; and further, that the clause in Section 11 of the above Act, which authorizes the directors to invest in "such real or personal securities as they may deem proper" does not authorize investment in the stock of private corporations.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

(NOTE.—The above opinion is based upon a memorandum on file in this office which discusses the right of corporations generally to hold stock in other corporations, as well as the particular questions involved in this opinion.)

STATE INSTITUTIONS. Boards and officers have no authority to make contracts, etc., to furnish water and sewer privileges and the Secretary of the State Board of Agriculture had no right to sign such a contract as Secretary and as an individual.

April 5, 1907.

Hon. J. L. Snyder, President, Agricultural College, Lansing, Michigan:

My Dear Sir—Within the last few days there has been called to my attention a contract, bearing date the 12th day of September, 1899, which purports to have been made by the board of your institution with the owners of the Oakwood Plat, situated near the College grounds, giving them the right to connect with and use the state water-mains and sewers and giving them the right to use the state water. I am informed that all parties now living on the Oakwood Plat are making use of the same.

For your information will say, in my opinion this contract is void, for two reasons: 1st. It is such a contract as the board of control had no lawful authority to make. 2nd. The secretary of the College

board at that time was interested in the Oakwood Plat and signed the contract as an official for the first party to the contract and also signed as an individual for the second party to the contract. This was clearly in violation of Section 11384 of the Compiled Laws of 1897, which is as follows:

"No trustee, inspector, regent, superintendent, agent, officer, or member of any board having control or charge of any educational, charitable, penal, pauper, or reformatory public institutions of this state, or of any county thereof, shall be personally directly or indirectly interested in any contract, purchase, or sale made for, or on account, or in behalf of any such institution, and all such contracts, purchases or sales shall be held null and void; nor shall any such officer corruptly accept any bribe from any persons interested in such contract; and it is hereby made the duty of the governor or other appointing power, upon proof satisfactory of a violation of the provisions of this section, to immediately remove the officer or employe offending as aforesaid; and upon conviction thereof before a court of competent jurisdiction, the offender shall be punished by a fine not exceeding five hundred dollars."

For these reasons, you are hereby advised that you should no longer permit the water-mains and sewers to be used by persons residing upon the Oakwood Plat, or any other plat.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

APPROPRIATION—TWO-THIRDS VOTE. The validity of the supplemental appropriation in aid of Jamestown Exposition—Failure to receive a two-thirds vote in house gives rise to doubt as to its validity. The determination of this question depends on answer, as to whether the *purpose* is a *public* or a *private* one. The question has been discussed in nearly all of the state courts, and as far as known, the courts have held, that such purpose was a public purpose. No reason assigned for saying that such appropriation was for a private purpose, but many why it should be called a public purpose.

April 26, 1907.

Hon. Henry C. Smith, Member Jamestown Ter-Centennial Exposition, Adrian, Michigan:

My Dear Sir—In compliance with your request for my opinion upon the validity of the supplemental appropriation of $5,000 recently passed by the legislature in aid of the Jamestown Ter-Centennial Exposition, the same being Senate Bill No. 318, I herewith submit the following:

The original act appropriating $20,000 for the Jamestown Exposition was passed several weeks ago. This sum being found insufficient by the Board of Managers, a request was made by them for a further appropriation of $5,000, which has already passed both houses of the legislature, but received in the house only a majority vote. The failure to

receive a two-thirds vote in the house gives rise to doubt as to its validity.

In order to determine this question another question will have to be determined, and that is, whether the appropriation is for a *public* or a *private* purpose. If the appropriation is for a private purpose a two-thirds majority of both houses was necessary. If the appropriation is for a public purpose a majority vote was sufficient.

Section 45 of Article III of our constitution provides as follows:

"The assent of two-thirds of the members elected to each house of the legislature shall be requisite to every bill appropriating public money or property for local or private purposes."

The object of these appropriations, as defined in the original act, was:

"For the purpose of making an historical and industrial exhibit upon the part of the state of Michigan at the Jamestown Ter-Centennial Exposition," etc.

The power to determine primarily whether appropriations of this character are for a public or private purpose lies with the legislature. While its decision is not conclusive, it will not be disturbed or set aside by the courts unless it is clearly evasive.

State v. Cornell, 39 L. R. A. (Neb.) 515.

In speaking of this rule, the language of Judge Folger, in Weismer v. Douglass, 64 N. Y. 99, is instructive.

"It is a general rule that the legitimate object of raising money by taxation is for public purposes and the proper needs of government, general and local, state and municipal. When we come to ask in any case what is a public purpose, the answer is not always ready, nor easily to be found. It is to be conceded that no pinched or meager sense may be put upon the words and that if the purpose designated by the legislature lies so near the borderline as that it may be doubtful on which side of it it is domociled, the courts may not set their judgment against that of the law-makers."

It is therefore clear that, the legislature having determined that the object of these appropriations was for public purposes, in pursuance of its right so to do, our court would not set it aside unless it was very clear that the appropriations were made for private purpose.

I am unable to understand what private purpose will be furthered by these appropriations. It is not an appropriation which benefits any individual interest nor the interest of any co-partnership or corporation, but is an appropriation for the purpose of making an exhibit of the natural resources of the state. This should appeal to the people of Michigan more than to the people of any other state in the Union, because our natural resources are more varied and rich than can be found in any other state in the Union. An exhibition of them at an exposition where meet the people of all parts of the country, helps to advertise our natural resources and thereby induce residents of other states to come and take up their residence with us. The object of these appropriations appeals to the pride, the prosperity and the loyalty of the people of Michigan, and not to the private interest of any individual, sect or class.

As illustrating the profit which may result to the state by making exhibitions of this kind, the state of California is a good illustration.

That state has been perhaps more generous than any other state in making appropriations for exhibiting their natural resources and products at the several expositions of this character that have been held in this country in the last twenty years, and by reason of their effort in that direction and of their being able to make the exhibits attractive, they have coaxed hundreds of citizens from other states within their borders to become permanent residents, and the whole interests of the state have been thereby benefited.

I think this appropriation can well be justified under Section 11 of Article XIII of our state constitution, which provides that:

"The legislature shall encourage the promotion of intellectual, scientific and agricultural improvement."

It is now universally conceded that expositions of this character are educators and assist materially in the material progress of the country. At these expositions the people from one section of the country performing certain work in a crude manner are aided by coming in contact with the people of another section doing the same work by the most approved and up-to-date methods. An interchange of ideas between people of different localities, whether in agricultural matters, industrial affairs, trades or professions, is beneficial to all, and when our legislature makes appropriations for the purpose set out in this bill, it could in no better way, for the amount involved, serve this constitutional mandate.

The expositions that have been held in this country in the last twenty years have given rise to the same questions in nearly all of the state courts; the same objections have been raised; and the same questions have been discussed; and in every instance that has come to my notice the courts have held that appropriations for this purpose were for a public purpose.

The case of Daggett v. Colgan, 92 Cal. 53, is the leading case holding that such an appropriation is for public purposes.

I can think of no reason to assign for saying that this is an appropriation made for a private purpose. I can see many reasons why it can be said that it is for a public purpose, and these are reinforced by the declaration of many state courts that such an appropriation is for a public purpose.

I am, therefore, of the opinion that these appropriations were made for a public purpose and that the passage of the latter appropriation by a majority vote of the house was sufficient to make it valid and give it effect.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

VILLAGE LAW, provides that no person can hold office unless he is an elector of the village. Could the President of the village, with consent of the council appoint as village attorney, a non-resident lawyer? The attorney so appointed would, at any rate, be a de facto officer and his official acts could not be questioned in a collateral proceeding. If there is no qualified person in the village, and such appointment is made the result of a test case, in the courts, as to the rights of appointee, is uncertain. A non-resident attorney could be employed by the village in any specified case, independent of his right to hold the office of village attorney.

April 26, 1907.

Hon. Seneca C. Traver, 313 Moffat Building, Detroit, Michigan:

Dear Sir—I have examined that portion of Section 7 of Chapter 2 of the Act for the Incorporation of Villages in this state, Section 2705 of the Compiled Laws, which provides that no person shall be elected or appointed to any office unless he shall be an elector of the village, as per your request.

The point in question is, whether the president of a village, by and with the consent of the council, could appoint as village attorney a lawyer who did not reside within the corporate limits of the village.

It is clearly my opinion that, where by proper resolution or ordinance the office of village attorney is created, and for the purpose of filling such office an attorney is appointed who does not reside within the limits of the village, if the person so appointed enters upon the duties of that office he would be a de facto officer. As such de facto officer his official acts could not be questioned in a collateral proceeding.

Where there is no one residing in the village qualified to hold the office, and such appointment is made as I have indicated above, for a definite term, I am not clear as to what result would be reached by the courts if a direct proceeding should be instituted to test the right of such appointee to hold the office.

I will say further that in my opinion an attorney could be employed by the village, under proper resolution, to render legal services for the village in any specified case or proceeding, who did not reside within the limits of the village, independent of the question of his right to hold the office of village attorney for a regular term.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

LIQUOR REGULATIONS. An ordinance which provides, that a saloon shall *not* be operated within certain limits, is in effect repealed, if, thereafter the proper authority approves the liquor bond of a person, and grants the license to operate a saloon within said limits.

May 1, 1907.

Hon. A. E. Woodruff, House of Representatives, "Capitol," Lansing, Michigan.

Dear Sir—Relative to the question of whether the approval of the liquor bond by a board of trustees, and the granting of a license to engage in the sale of liquor at a certain designated location within the territory prohibited by an ordinance would repeal the provisions of the ordinance in so far as the limited territory is concerned, would say:

That where a proper ordinance has been adopted which provides that a saloon shall not be operated within certain limits, if thereafter the proper authority approves the liquor bond of a person and grants him the license to operate a saloon within the territory restricted by ordinance, this act would have the effect of repealing, at least by implication, that portion of the ordinance which made it unlawful to operate a saloon within certain limits.

Very respectfully,
JNO. E. BIRD,
Attorney General.

BANKING LAW. Regulation of private banks. The right of the state to withhold from individuals the privilege of engaging in banking, and to confer it upon incorporated companies only, may be regarded as doubtful. It is settled, however, that statutes regulating the business of banking, are valid, whether such business is conducted by corporations, partnerships or individuals (Excepting that done by National Banks). Legislation subjecting business of private bankers to reasonable regulation would be constitutional.

May 1, 1907.

Hon. Stanley D. Montgomery, House of Representatives, "Capitol," Lansing:

Dear Sir—In compliance with your request for an opinion as to the validity of proposed legislation regulating the business of private bankers, I beg to submit the following:

While the right of the state to withhold from individuals the right to engage in banking and to confer the privilege upon incorporated companies only may perhaps be regarded as doubtful, it is well settled that statutes regulating the business of banking, whether conducted by corporations, partnerships or individuals, are valid.

Blaker v. Hood, 53 Kan. 499;
State v. Woodmansee, 1 N. Dak. 246;
State v. Scougal, 3 S. Dak. 55.

In Blaker v. Hood, supra, an act providing for the organization of corporate banks and for the regulation of all banking business, except that done by National Banks, whether conducted by corporations, partnerships or individuals, was held valid. The court there said:

"The argument and authorities cited by council for plaintiffs in error are mainly directed to the contention that the legislature cannot withhold from individuals the right to engage in banking, and confer the privilege alone upon incorporated companies. This contention is not a matter of concern at this time, as our statute does not pretend to limit the business to incorporated companies, nor to discriminate between corporations and individuals. The question with us is whether the banking business is of such a character as to warrant the legislature, in the exercise of the state's police power, to impose reasonable regulations upon the means and methods by which it is conducted * * . Enactments controlling the loaning of money and regulating the rate of interest upon the same have been sanctioned from the earliest times, and the nature of the business done by banks in dealing in money, receiving deposits for safe-keeping, discounting paper and loaning money is such, and is so affected with a public interest as to justify reasonable regulation for the protection of the people. The confidential and trust relations which exist between the bank and its patrons, and the difficulty that depositors and those dealing with the bank necessarily encounter in detecting irregular practices, and in ascertaining the real financial condition of banks, are sufficient to justify inspection and control. Those engaged in the business invite all the community to deposit their funds with them, which, when obtained, are largely used for their profit. The numerous instances where the earnings and funds of people so deposited are dissipated and lost show the necessity for measures to protect the people from imposition, extortion, and fraud. For this reason, most of the states have enacted laws recognizing banking as a quasi-public business, and regulating the same to a greater or less extent." (508, 509.)

In State v. Woodmansee, supra, a law which permitted banking to be carried on by corporations only, to the exclusion of individuals, was upheld, the court saying:

"But, on the other hand, it is conceded that the business of banking, by reason of its very intimate relations to the fiscal affairs of the people, and the revenues of the state, is and has ever been considered a proper subject of legislative control, and strictly within the domain of the internal police power of every state. As a matter of fact, we have been unable to find an authority, and we have searched diligently, which has ever questioned the right of the legislature in the exercise of police power to regulate, restrain and govern the business of banking. The relator, however, complains that Section 27 does not merely regulate; it goes further, and prohibits individuals from banking in a private capacity * * . But, as a matter of precedent and authority, the legislative prerogative, in the exercise of its police power in promoting the public safety, not only to regulate and restrict the business of banking,

but also to grant the right to one class, and to prohibit to others, or even to forbid it altogether, has never been questioned in the courts, and the legislatures of other states have frequently exercised the right of supreme control over the business * * . It is clear from these citations that the matter of regulating and prohibiting private banking, and all banking not expressly authorized by law, is strictly within the legislative discretion, under that branch of the police power relating to the public safety, and that the courts will not interfere and declare such legislation unconstitutional as an evasion of individual rights." (249, 250, 251).

In State v. Scougal, supra, it was held not a constitutional exercise of legislative power to deprive individuals of the right to carry on the business of banking, other than that of issuing "bills or paper credit, designed to circulate as money" and confer the exclusive privilege of carrying on such business upon corporations organized for that purpose.

While in this case the right to prohibit individuals from engaging in the business of banking was denied, the right of the state to control and regulate the conduct of the business was expressly recognized, the court saying:

"But, assuming that the business of banking we are now considering is clothed with such a public use that it may be controlled by the state, (and we think it is so affected with the public interest,) still it does not follow that the citizen may be deprived of the right to carry on the business. This, like any other business, may be subjected to reasonable regulations, which shall alike apply to all citizens and corporations." (75, 76.)

In the light of these authorities, I am clearly of the opinion that the state has power to regulate the business of private bankers, and that legislation subjecting such business to reasonable regulation would be constitutional.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

COMMUTATION OF SENTENCE OF CONVICT. Right of the Governor to commute the sentence of a convict sentenced to prison for life, to ninety-nine years, without the consent of the convict. The Governor is vested by the constitution with authority to commute sentences of convicts for any offenses, except treason and impeachment. The commutation does not annul the sentence of the court but modifies it. There is a distinct difference between a pardon and a commutation of a sentence. There are cases which hold that a criminal cannot be forced to accept a pardon. This does not seem to be the rule in regard to a commuted sentence. The prisoner knows that term of his sentence may be lessened at any time. The consent of the convict is not necessary to the effectiveness of a sentence commuted from life imprisonment to ninety-nine years.

May 23, 1907.

Mr. Marl T. Murray, Secretary, Pardon Board, "Capitol," Lansing, Michigan:

Dear Sir—I have carefully considered your request in regard to the right of the Governor to commute the sentence of a convict sentenced to prison for life to ninety-nine years, without the consent of the convict.

The Governor is vested with the unrestricted power to grant reprieves, commutations, and pardons. Section 11 of Article 5 of the constitution provides in part:

"He may grant reprieves, commutations, and pardons after convictions, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to regulations provided by law, relative to the manner of applying for pardons."

There is no question under authority of this provision but the Governor may commute sentences of convicts for any offenses except treason and impeachment. The real question presented is whether the commuted sentence would become operative against the will and consent of the convict.

The effect of commuting the sentence cannot be said to annul the sentence of the court, but it is an affirmation of it with a modification. A person who is sentenced, is in custody "by virtue of the sentence of the court" Ex parte Collins 94 Mo. 22. There is a distinct difference between a pardon and the commutation of a sentence which it is not necessary to indicate here. It is true that there are cases which hold that a criminal cannot be forced to accept a pardon. Vol. 24 Amer. & Eng. Ency. of Law, Second Edition, page 578, Note 1. This does not seem to be the rule in regard to a commuted sentence.

In Lee v. Murphy, 63 Va. (22 Gratt.) 789, it is said "A commutation is the substitution of a less for a greater punishment by authority of law, and may be imposed upon the convict without his acceptance and against his consent." (798.) In the matter of Sarah M. Victor, 31 Ohio State 206, there was a conviction and the prisoner was sentenced to be executed. Prior to the day of execution, the convict became insane, and subsequently the Governor commuted her punishment to imprisonment for life. In passing upon the question of whether or not the consent of the convict was necessary to make the commuted sentence effective, the court said:

"The only question involved in the case is whether the prisoner's acceptance of the commutation is essential to its validity. Or, to state the question more generally, has the Governor of Ohio, under our present constitution and laws power to commute the sentence of a lunatic, without her consent? We have no hesitation in answering this question in the affirmative.

A commutation is not a conditional pardon; nor is it simply the substitution of one punishment for another. In its legal acceptation, it is a change of punishment from a higher to a lower degree, in the scale of crimes and penalties fixed by the law, and is presumed, therefore, to be beneficial to the convict. It is an act of executive clemency, equally as a pardon, only in a less degree." (207.)

However, in Massachusetts, there is a case which from the language used, it might be inferred that a commutation of a sentence can be granted only with the convict's consent, by way of conditional pardon. Opinion of the Justices, 14, Mass. 472.

We believe, however, that the language of our constitution is of sufficient breadth to warrant the Governor in exercising his discretionary right to commute the sentence of a life convict to ninety-nine years, and that if such action is taken, the commuted sentence will be effective regardless of whether or not the convict's consent is obtained.

It is quite difficult to understand the reasoning that would lead to a contrary conclusion. We apprehend that a convict has no vested right to continue under a life sentence rather than for a term of years, and that the fact of the commuted sentence being for a term of ninety-nine years is not deemed material.

It would seem that varying conditions might make imperative the necessity for the exercise of such power by the Governor although the convict might not be in favor of such action. All the rights are not on the side of the convict. The state is an interested party. A convict, sentenced to state prison, has no vested right to be confined within its walls. In Rich v. Chamberlain, 104 Mich. 439, our supreme court said:

"Again all sentences direct that the prisoners be confined in the state prison; but under the law, they may be hired to do work outside of the walls, in factories or mines or upon highways, different states having different rules. The sentence is always imposed and received under and interpreted by the law to which it is subject. The judge and the prisoner act with the knowledge of this fact, and must be presumed to understand, that, while the judge may or may not sentence a prisoner to one or another institution, there is an existing law under which he may be lawfully transferred. The sentence impliedly subjects him to this when, in the discretion of the proper executive officer or board, crowded prisons or any other reasons require or make it advisable."

It must be equally true that the prisoner is charged with the knowledge that the term of his sentence may be lessened at any time. We are of the opinion that the consent of a convict is not a condition precedent to the effectiveness of a sentence commuted from life imprisonment to ninety-nine years.

Very respectfully,
JNO. E. BIRD,
Attorney General.

ANNEXATION OF NEW TERRITORY TO A VILLAGE. Forms of law to be followed in this state, in order to effect a statutory dedication of land to public use. The question of the necessity of plat or map showing the land to be dedicated, etc., and of the recording the same, in the office of the County Register of Deeds. Annexation may be had under Sec. 2940, C. L. 1897, without complying with Secs. 3372 et seq.

May 24, 1907.

Mr. Frederick B. Wood, Attorney-at-Law, Tecumseh, Michigan:

Dear Sir—Your communication of the 19th ult., at hand and contents noted. You refer me to Section 2940 and Sections 3372-3382, C. L. 1897, and ask my opinion as to whether the plats provided for in Sections 3372 et seq., must be made and recorded in the office of the Register of Deeds in a case where certain territory was annexed to the village of Tecumseh under authority of Section 2940.

In reply thereto would refer you to the opinion of Justice Goodwin in the case of People vs. Beaubein in Second Douglas at page 270:

"This statute, as is apparent on its face, was designed to provide an explicit mode for the dedication of streets and other grounds designed for public uses, upon the laying out of towns by individual proprietors, and to render the rights of purchasers, and the public generally, in grounds thus dedicated, definite and certain. It also obviated the difficulty met with in some of the cases in the application of common law principles of dedication, in regard to the ownership of the fee, by providing that upon compliance with the provisions of the act, this should vest in the county, in trust for the designed uses."

Also the opinion of Justice Cahill in Village of Grandville vs. Jennison, 84 Mich. at pages 65-6:

"Since 1827 the forms of law required to be followed in this state to effectuate a statutory dedication of land to public use have remained substantially the same. Changes have been made in matters of detail, but from the first the statute has required a plat or map showing the land intended to be dedicated to be made and acknowledged by the proprietor, and recorded in the office of the Register of Deeds. * * * The making of a plat of lands by the proprietor, showing lots, blocks, and streets, evidently for the use of those who shall come to occupy the property, and the subsequent sale of the property in lots or blocks, according to such plat, as was done in this case is one of the clearest ways of declaring an intention to dedicate."

In fact all the cases treat this statute as a means whereby the land proprietor may dedicate lots, blocks, and streets to the public.

Carrying out the idea of dedication, which to me is the purpose of this statute, it would follow, if this statute had to be complied with before the annexation was complete, that every owner of land in the portion annexed, whether he cared to or not, would be obliged to plat his property and dedicate streets to the public.

This certainly was not the intention of the legislature or the purpose of the statute.

I am therefore of the opinion that complete annexation may be had under Sec. 2940 without the provisions of Secs. 3372 et seq., being complied with.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

CITIES OF THE FOURTH CLASS. The mayor would not have the right to cast the deciding vote in confirming the appointment of a city officer, nominated by himself.

May 29, 1907.

Hon. Duncan A. Wayne, "Capitol," Lansing, Michigan:

Dear Sir—I have carefully considered your oral inquiry submitted to Mr. Lawler, in regard to the right of the mayor of the city of Coleman to cast the deciding vote where the council is equally divided upon the question of confirming the appointment of an officer of the city, made by him.

Replying thereto, would say, the city of Coleman is incorporated as a city of the fourth class under Act 429 of the Local Acts of 1905. Section 3 of Chapter 5 of the fourth class city act, being Section 2990 of the Compiled Laws of 1897, which enumerates the officers that may be appointed by the mayor, by and with the consent of the council, provides in part, that:

"All such appointments shall be made by the mayor by and with the consent of the council, and their powers and duties shall be prescribed by ordinance, but the mayor shall have no vote in the council on the question of his appointments of above named officers."

The above quoted language seems to answer your inquiry. In accordance therewith, the mayor of the city of Coleman is without right to cast the deciding vote where his appointments to office are concerned.

Very respectfully,
JNO. E. BIRD,
Attorney General.

COUNTY AGENTS' COMPENSATION. The county agents appointed by State Board of Corrections and Charities are not entitled to extra compensation from the state for inspecting county jails.

June 5, 1907.

Board of State Auditors, "Capitol," Lansing, Michigan:

Gentlemen—With reference to the question of whether or not county agents are entitled to demand and receive compensation from the state for inspecting county jails, I beg to submit the following:

County agents of the State Board of Corrections and Charities are appointed pursuant to the provisions of Act No. 171 of the Public Acts of 1873 (Sections 2260-2266, Compiled Laws of 1897), which imposes upon them certain duties in relation to juvenile offenders and provides that they shall receive as compensation for their services under that act the sum of $3.00 for each day's service, together with their official expenses, the same to be audited by the Board of State Auditors and paid from the general fund.

By Section 2665 of the Compiled Laws of 1897, the judge of probate, county agent and county superintendent of the poor are made inspectors of the jails within their respective counties, and by Section 2667 of the Compiled Laws it is made their duty to visit and inspect such jails in the months of February and September in each year. No compensation whatever is provided by law for the performance of these services.

The rule with reference to a public officer being entitled to compensation for services where no compensation is fixed by statute is thus stated in Throop on Public Officers, Section 478:

"An officer is not entitled to compensation unless it is given to him by the constitution or a statute; and where the compensation is thus given, whether by salary or by fees or by commissions or otherwise, it is in full of all his official services; and he is not entitled to demand or receive any additional compensation from the public or from an individual for any services within the line of his official duty; although his duties may have been increased or entirely new duties have been added since he assumed office; or if his compensation consists of fees, although the service is one for which no fee is provided by law."

Within this rule, no compensation having been provided by law to be paid the county agent for the performance of the duty of inspecting the jails within his county, it is my opinion that he is not entitled to demand or receive any compensation from the state therefor.

Respectfully yours,

JNO. E. BIRD,

Attorney General.

LIEUTENANT GOVERNOR. Cannot cast the deciding vote upon the question of concurring in amendments made by the House although he is the president of the senate and thereby entitled to "give the casting vote" when there is an equal division in committee of the whole, the constitution providing "No bill or joint resolution shall become a law without the concurrence of a majority of all the members elected to each house" and to hold that the Lieutenant Governor may cast the deciding vote upon the question of concurring in amendments made by the house would necessarily be to hold that the bill may become a law without the concurrence of a majority of all the members of the senate.

June 13, 1907.

Committee on Judiciary, Senate Chamber, "Capitol":

Gentlemen—I am in receipt of your communication of the thirteenth instant, requesting an opinion upon the question of whether or not, after a bill has passed the Senate and is transmitted to the House, where it is amended and passed, the Lieutenant Governor is entitled to cast the deciding vote in the Senate in the event of a tie upon the question of concurring in the amendments made to the bill by the House.

For answer thereto I would say that the constitution provides, in Section 14, Article 5, that the Lieutenant Governor shall, by virtue of his office, be president of the Senate. He is not a member of the Senate, and is not therefore entitled to vote as a member of that body unless authority to do so is conferred upon him by the constitution.

Cushing, Law and Practice of Legislative Assemblies, Sec. 308.

The only authority to vote in the Senate conferred upon the Lieutenant Governor is found in the section of the constitution above referred to, where it is provided that: "In committee of the whole he may debate all questions; and when there is an equal division he shall give the casting vote."

Under this provision, the authority of the Lieutenant Governor to cast the deciding vote would seem to me limited to those cases where a tie exists in committee of the whole. But whatever may be the authority of the Lieutenant Governor to vote under this provision of the constitution, it seems clear that he has not the right to cast the deciding vote in the specific case you have in mind, by reason of another provision of the constitution. Section 19 of Article 4, provides that "No bill or joint resolution shall become a law without the concurrence of a majority of all the members elected to each house." To hold that the Lieutenant Governor may cast the deciding vote upon the question of concurring in the amendments made by the House, is necessarily to hold that the bill may become a law without the concurrence of a majority of all the members elected to the Senate.

It is, therefore, my opinion that the Lieutenant Governor is not entitled to cast the deciding vote in the event of a tie upon the question of concurring in amendments to a Senate bill made by the House.

Respectfully yours,

JNO. E. BIRD,

Attorney General.

NOTE.—See the case of Kelley v. Secretary of State, 149 Mich. 343.

INCORPORATION OF MINING, SMELTING, ETC., COMPANIES, under Senate Bill 502, Enrolled Act 159. Right to acquire existing and competing mining properties, in view of Sec. 12, Art. 15, and Sec. 9, Art. 19, of the constitution.

June 13, 1907.

Hon. Guy A. Miller, Member House of Representatives, "Capitol," Lansing:

Dear Sir—I am in receipt of your communication of the seventh instant, calling attention to Senate Bill No. 502, Enrolled No. 159, amending Section 7021 of the Compiled Laws of 1897, the same being Section 31 of Act No. 113 of the Public Acts of 1877, entitled "An act to revise the laws providing for the incorporation of companies for mining, smelting, or manufacturing iron, copper, silver, mineral coal, and other ores or minerals, and to fix the duties and liabilities of such corporations."

In this connection, you submit for my consideration certain questions, as follows:

"First. Will the bill as passed by the legislature permit the acquisition of existing, competing mining properties, and their consolidation, by and under one corporate control?

Second. Will the bill, as passed, if it is signed by His Excellency, the Governor, amount to a repeal by implication of the state anti-trust laws, so-called, in so far as it may conflict with the provisions thereof."

Section 31 of the Mining Law, so-called, as it stands at the present time, reads as follows:

"Any corporation organized or existing under this act shall have power to acquire and hold any quantity of land, not to exceed fifty thousand acres."

If the bill in question should become a law, this section would read as follows:

"Every corporation organized or existing under this act shall have power to purchase, hold and convey all such real estate as the purposes of the corporation shall require."

With respect to the bill in question, it will be noticed that the limitation as to number of acres of real property which such a corporation may hold is removed where such property is held for the purposes of the corporation.

Section 12 of Article 15 of the Constitution of Michigan reads as follows:

"No corporation shall hold any real estate, hereafter acquired, for a longer period than ten years, except such real estate as shall be actually occupied by such corporation in the exercise of its franchises."

Section 9 of Article 19 reads as follows:

"The charters of the several mining corporations may be modified by the legislature, in regard to the term limited for subscribing to stock, and in relation to the quantity of land which a corporation shall hold; but the capital stock shall not be increased, nor the time for the existence of charters extended. No such corporation shall be permitted to purchase or hold any real estate, except such as shall be necessary for the exercise of its corporate franchises."

Article 19 of the constitution relates exclusively to the Upper Peninsula and the mining companies referred to in Section 9 are those which were in existence by virtue of special charters at the time of the adoption of the present constitution.

Mason v. Perkins, 73 Mich. 303, 317.

It will, therefore, follow that this provision of the constitution has no application to corporations organized under the general mining law now in force.

Independent of the particular questions which you have submitted for my consideration, it will be noticed that the language of Section 31 of the Mining Law, if the bill in question becomes a law, would be much broader than Section 12 of Article 15 of the constitution of this state. In the first place, Section 12 of Article 15 of the constitution prohibits a corporation from acquiring or holding real estate for a longer period than ten years, except such real estate as shall be *actually occupied* by such corporation in the exercise of its franchises. Section 31 of the Mining Law, as it is sought to be amended, does not limit the real estate holding for permanent purposes of the corporation to that "actually occupied" by such corporation in the exercise of its franchises.

In my judgment, it appears to be a legislative sanction or invitation to such corporations to acquire and hold such real estate as in the judgment of the officers of the corporation might be used directly or indirectly for the purposes of the corporation now or hereafter. I realize that, at common law, corporations have the power, without special legislative license, to take and hold as much land as may be reasonably necessary or convenient for the purposes of their creation, (10 Cyc. 1120) but in this state we have an express limitation incorporated in the constitution which limits the holding of real estate by a corporation to that actually occupied in the exercise of its franchises; the only exception to this rule being real estate incidentally acquired in the course of its business which it may hold not longer than a period of ten years.

The reason for limiting the holding of a large acreage of real estate by a corporation is based upon the ground of public policy, or danger to the public welfare as expressed in the language of Chief Justice Christiancy in the case of,

Thompson v. Waters, 25 Mich. 227,

as follows:

"1st. The danger of their becoming speculators in lands to large amounts, keeping them unimproved and thereby retarding the progress of settlement and improvement, or, if improved, preventing settlers from obtaining clear or independent titles, and introducing a system of tenancies in which the tenants would be, in a great measure, dependent upon such corporations. 2d. The holding of such lands for a long period of time, as they pass by perpetual succession without any change or break by death, as in the case of natural persons; and 3d, the influence which wealthy corporations, holding large bodies of land in the state, might exercise upon the legislature. * * *

And in a case where it should very clearly appear to the court from the amount of lands purchased, or the purpose for which they were purchased, or other circumstances, that the dangers I have mentioned were

seriously to be apprehended, it may be (though the present case does not call for an opinion upon this point), that the court would be authorized, without any legislative prohibition to that end, to refuse to recognize the law of the state creating the corporation, or so much of it as had undertaken to confer the right of holding such lands; and, consequently, to treat the conveyance as void for want of such capacity."

It seems to me that the policy of the state in this regard is fully indicated by the constitutional provision referred to, viz.; Section 12 of Article 15, which limits the real estate which a corporation may generally hold to that actually occupied by the corporation in the exercise of its franchises, and as to real estate incidentally acquired in the course of business the same must be disposed of within the period of ten years. This provision was adopted unquestionably for the express purpose of avoiding the conditions pointed out so clearly by Chief Justice Christiancy.

In my opinion, the fact that the bill in question in a great measure ignores this policy of the state is much more serious than the particular questions submitted by you.

In regard to your first question, I would say that the Mining Law, Section 7015 to 7018, inclusive, Compiled Laws of 1897, provide for the consolidation of corporations organized thereunder, with certain limitations as to capital stock, etc. It is my opinion that, in the event of a consolidation under these provisions of the Compiled Laws, or what would practically amount to the same thing, the securing of real estate of other corporations, under the bill in question, if it should become a law, if done for the purpose of controlling the output or the price of the product of any such mining corporation, would be against public policy and in violation of the anti-trust laws of this state. (Act No. 255, P. A. 1899 and Act No. 329, P. A. 1905.)

I appreciate the fact, however, that the bill in question upon its face does not purport to directly authorize such results, but, as I have heretofore indicated, it is more in the nature of a legislative sanction or invitation to resort to methods leading to such results.

I believe this also covers your second question.

Respectfully yours,
JNO. E. BIRD,
Attorney General.

MILITARY LAWS. If House Enrolled Act 391 becomes a law it repeals all existing laws relative to Michigan National Guard, consequently there will be a vacancy in all military offices named in the act, except in that of Brigadier General Commanding. The old Michigan National Guard will go out of existence. A new Michigan National Guard must be mustered in, and all the offices filled in accordance with the provisions of the new act.

June 26, 1907.

Gen. Wm. T. McGurrin, Adjutant General, "Capitol," Lansing, Mich.:

My Dear General—In response to your oral inquiry regarding the effect of House Enrolled Act No. 391, if approved by the Governor and becomes a law, will say:

1st. That it was the evident intent of the legislature to repeal all of the existing laws relative to the Michigan National Guard; consequently, upon the approval by the Governor of said Enrolled Act No. 391 and filing the same in the office of the Secretary of State there will be a vacancy in all military offices named in said act except in that of Brigadier General Commanding, whose term of office under Section 24 of said act will expire January 1st, 1908, and thereafter his successors will be appointed for a term of three years;

2nd. That the term of office of those officers referred to in Section 12 of said act will be for two years from and after the date of appointment;

3rd. Said act was given immediate effect and when it becomes a law will be in full force and effect as the only military law of this state;

4th. All of the present military laws being repealed by said act without a saving clause, the Michigan National Guard goes out of existence. This necessitates the immediate filling of all vacancies in the offices in accordance with the provisions of said act and the mustering in of a new Michigan National Guard in accordance with the provisions of said act.

Yours respectfully,
JNO. E. BIRD,
Attorney General.

SCHEDULE "M."

Abstract of the semi-annual reports of the Prosecuting Attorneys of official business of the various counties, for the fiscal year ending June 30, 1907.

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
A.							
Abandonment	52	31	3	4	3	7	4
Abduction	2	1			1		
Abortion—administering drugs with intent to produce	1					1	
Adultery	103	15	1	15	23	23	26
Animals—letting stallion run at large	1				1		
Animals—bull running at large	3	2		1			
Animals—cruelty to	173	132	15	7	11	6	2
Arson	23	7	2	1	7	5	1
Arson—Attempting to commit	2		1		1		
Assault—simple	68	44	6	4	4	7	3
Assault—felonious	105	41	5	4	24	28	3
Assault and battery	3,273	2,252	399	275	123	81	143
Automobiles, see "Motor Vehicles."							
B.							
Barber's law—violation of, classified as:							
Doing business without license	1	1					
Blackmail	2			1	1		
Bottles—registered—violation of law	4	2	2				
Bastardy	194	50	2	13	47	9	37
Bastardy—infant, secreting of, at birth (juvenile)	3	3					
Bigamy	15	14				1	
Bill-board law—violation	1		1				
Bill-board—destroying	1	1					
Breaking and entering—statutory	5	5					
Breaking and entering buildings (other than dwelling-houses) in day time	12	6	2			4	
Breaking and entering buildings (other than dwelling-houses) in night time	29	20		1	2	6	
Breaking and entering dwelling in day time	10	8				1	1
Breaking and entering factory in night time, attempt	4	4					
Breaking and entering dwelling house in night time—intent felony	19	7	5		3	4	
Breaking and entering railroad car to commit larceny	8	7			1		
Bribery	2				1	1	
Bribery—attempted	1		1				
Burglary—classified as:							
attempt to commit	3	2				1	
in a store at night time	1				1		
burglary and larceny	27	22	3	1	1		
unclassified	150	103	5		20	19	3
Burning bridge	4					4	
C.							
Chastity—imputing want of, to female	6	5				1	
Children:							
abandonment of	2			1		1	
cruelty to	10	7	2		1		
violation of child-labor law	10	3	1		4		2

SCHEDULE "M."—Continued.

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, &c.
Cockfighting:							
spectators	6	4	.....	.....	2	.....	.....
aiding and abetting	27	25	.....	.....	.....	2	.....
Cohabitation:							
unlawful	12	10	.....	.....	.....	.....	2
lewd and lascivious	53	28	3	2	6	13	1
Concealed weapons, carrying of	220	202	9	3	1	3	2
Conspiracy	10	3	5	.....	.....	2	.....
Conspiracy to defraud	3	.....	.....	.....	3	.....	.....
Crime—imputing to another	3	2	.....	.....	.....	1	.....
Crossing law—violation of by Ry. Co	2	2	.....	.....	.....	.....	.....
D.							
Danger signal—failure to erect where ice had been cut	1	1	.....	.....	.....	.....	.....
Defrauding	1	1	.....	.....	.....	.....	.....
Disorderliness—classified as:							
wife-beating	1	1	.....	.....	.....	.....	.....
drunkenness	9,909	9,695	75	51	36	29	23
non-support	586	220	34	69	35	14	214
vagrancy	1,178	1,117	42	2	3	6	8
telling fortunes	9	9	.....	.....	.....	.....	.....
unclassified	1,897	1,694	43	55	29	29	47
Disorderliness—juvenile—classified as:							
burglary—R. R. car	1	1	.....	.....	.....	.....	.....
truancy	208	182	2	.....	9	11	4
running away from parents	1	1	.....	.....	.....	.....	.....
fence—carrying away	1	1	.....	.....	.....	.....	.....
unclassified	260	215	17	1	5	4	18
E.							
Election law—violation of	1	1	.....	.....	.....	.....	.....
Embalming without license	2	2	.....	.....	.....	.....	.....
Embezzlement	112	54	8	14	22	10	4
Entering without breaking—in day time:							
building or store to commit crime	6	6	.....	.....	.....	.....	.....
dwelling to commit crime	4	2	.....	.....	2	.....	.....
garden and carrying away vegetables	10	10	.....	.....	.....	.....	.....
Entering without breaking in night time:							
building to commit crime	3	1	.....	.....	1	1	.....
dwelling to commit cirme	1	1	.....	.....	.....	.....	.....
Enticing female under 16 years from home—for marriage	2	1	.....	.....	.....	1	.....
Escape:							
aiding prisoner to	4	3	.....	.....	1	.....	.....
Escaping	1	.....	.....	.....	1	.....	.....
Extradition	1	1	.....	.....	.....	.....	.....
F.							
Factory law—violation of	1	1	.....	.....	.....	.....	.....
False weights—using of	2	.....	2	.....	.....	.....	.....
False pretenses—classified as:							
obtaining signature to note by	1	.....	.....	1	.....	.....	.....
obtaining goods by	7	7	.....	.....	.....	.....	.....
obtaining money by	66	41	6	7	4	7	1
unclassified	84	40	1	19	6	14	4
Fast driving	8	8	.....	.....	.....	.....	.....
Felony—accessory after the fact	2	.....	.....	.....	.....	2	.....
Fire-arms—aiming, careless use of, etc	18	12	2	.....	.....	3	1
Fire-arms—accidental and careless shooting human being while hunting	2	1	1	.....	.....	.....	.....
Forgery	84	60	2	3	5	11	3
Fugative from justice	1	.....	.....	.....	.....	.....	1

SCHEDULE "M."—Continued.

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
G.							
Game and fish law—violation of:							
deer killing—out of season	1	1					
having in possession skins	2	2					
fish—spearing	14	11	1		2		
fish—killing with firearms	1	1					
fishing in inland lakes with set lines	4	4					
brook trout—less than 8 in. long—having in possession	16	15				1	
fishing illegal	77	66	2		7	2	
fishing with net closed season	6	6					
killing rabbits by use of ferret	5	5					
killing song birds	1	1					
killing muskrat out of season	2	2					
squirrel, fox—killing out of season	1	1					
killing game out of season	4	4					
unclassified	229	188	9	1	4	8	19
Gaming	90	84	2		2	1	1
conducting gift enterprises—selling lottery tickets	3				3		
keeping slot machines	2	2					
Gaming room devices, etc., keeping	41	25	4		6	4	2
H.							
Hawkers and peddlers law—violation of—classified as:							
peddling without license	18	12	1	2	3		
unclassified	5	3	2				
Health law—violation of—classified as:							
carcass of animal—leaving unburied	1	1					
unclassified	5	5					
Hotels, boarding houses, etc., law for protection of keepers of, violations of, classified as:							
defrauding hotel keeper, etc	80	60	2	11	1	1	5
unclassified	11	6	1	4			
Horse—unlawfully unhitching and driving away	11	10				1	
injuring, overdriving and killing	4	3					1
overdriving, not killing	2	2					
I.							
Illegal voting	1	1					
Incest	7	3				4	
Indecency unclassified	9	6			3		
Indecent:							
exposure of person	28	21	1		2	4	
language in presence of women and children	313	259	18	8	13	9	6
liberties with child	14	9	3		1	1	
pictures—exposing of	6	4					2
Injury—by writing—malicious	1	1					
Injury—to growing crops	2	2					
Insurance law—violation of	1					1	
Insurance—burning building in order to secure	1					1	
J.							
Jail breaking	1	1					
K							
Kidnapping	1				1		

SCHEDULE "M."—Continued.

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
L.							
Laborers—interference with	1		1				
Language—insulting	2	2					
Larceny—classified as follows:							
from buildings, railroad cars, etc	12	11		1			
from buildings, stores, etc., in day time	16	14	1		1		
from dwelling	8	7			1		
from dwelling—in day time	29	23			1	5	
attempted	4	3				1	
from person	90	34	4		12	35	5
from person—attempt to commit	2	1			1		
in a building, school house, etc., in day time	2	2					
in a dwelling	3	3					
in a dwelling—in day time	1	1					
of horse	10	6			1	1	2
of timber	3	2		1			
larceny by conversion	92	28	8	11		20	25
simple	1,740	1,316	193	39	38	36	118
grand	201	112	11	12	11	40	15
compound	1	1					
juvenile larceny unclassified	47	41		1			5
unclassified	1,138	846	69	60	90	62	11
Libel—criminal	6	3			1	2	
License law:							
violation of in regard to sale of bankrupt stock	1			1			
selling milk without license	1	1					
Liquor law—violations of—classified as:							
keeping saloon open after hours	80	63	1		10	4	2
keeping saloon open on election day	5	3				2	
keeping saloon open on legal holiday	32	28			1	3	
keeping saloon open on Sunday	151	122	4	1	17	7	
not filing bond	47	24		17	2		4
obstructing view of bar	31	11	5		15		
furnishing liquor to drunkard	5	3				2	
selling liquor without having paid license	66	43		7	4	6	6
druggist making sale without making record	1	1					
druggist selling liquor as a beverage	6	5				1	
passing liquor to prisoners	4	2			1	1	
unclassified	436	345	14	8	38	29	2
Livery keeper—defrauding	29	21	1	2	3		2
Local option law—violation of	8	1	3		4		
M.							
Manslaughter	18	7	6	1	4		
Mahem	3	2				1	
Marriage law—violation of	2				1	1	
Medical law—violation of—classified as:							
practicing medicine without certificate	4	3				1	
unclassified	10	7		1	1	1	
Minors:							
allowing to remain in house of prostitution	4	4					
billiard room or pool room	16	9	2	2		2	1
saloon	3	2			1		
selling liquor to	51	27	7		8	8	1
selling liquor to, by druggist	1	1					
purchasing, junk, clothing, etc., from	21	18	2				1
furnishing liquor to	4	4					
selling tobacco to	3	3					
admitting to dance house	2	2					
Misdemeanor	1					1	
Motor vehicle, unlawfully taking and driving away	5	5					

SCHEDULE "M."—Continued.

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
Motor vehicles:—							
Violation of law (automobiles, etc.)	258	246	7	.....	2	.....	3
Murder—classified as:							
assault with intent to murder	39	17	6	1	5	9	1
first degree	1	1	.....	.....	.....	.....	.....
second degree	1	1	.....	.....	.....	.....	.....
unclassified	36	15	10	.....	4	4	3
N.							
Noxious weed law—violation of—classified as:							
allowing Canada thistles to grow	1	1	.....	.....	.....	.....	.....
unclassified	4	4	.....	.....	.....	.....	.....
Nuisance—maintaining	1	.....	1	.....	.....	.....	.....
unlawfully keeping slaughter house	1	1	.....	.....	.....	.....	.....
common	3	2	.....	.....	.....	.....	1
committing	5	5	.....	.....	.....	.....	.....
O.							
Office—malfeasance in	1	.....	1	.....	.....	.....	.....
Officers—offenses against:							
interfering with an officer on duty	2	1	1	.....	.....	.....	.....
assaulting	6	5	1	.....	.....	.....	.....
impersonating	1	.....	.....	.....	1	.....	.....
resisting	23	8	1	.....	2	7	5
offering a bribe to an official	1	.....	1	.....	.....	.....	.....
Ordinance:							
city—violation of—sidewalk ordinance	1	1	.....	.....	.....	.....	.....
city—violation of—begging on street	9	7	.....	1	.....	1	.....
village—violation of	4	4	.....	.....	.....	.....	.....
P							
Peace—breach of—as follows:							
exciting disturbance, etc	1,239	1,101	118	16	4	.....	.....
surety to keep peace	31	21	3	2	2	.....	3
affray	20	20	.....	.....	.....	.....	.....
Perjury—subordination of	19	10	2	.....	6	1	.....
Personating an other falsely	1	1	.....	.....	.....	.....	.....
Pharmacy law—violation of	8	5	.....	1	.....	1	1
Plumbing law—violation of	13	3	2	.....	.....	1	7
Poisoning animals	5	.....	2	.....	3	.....	.....
Polygamy	1	.....	.....	.....	1	.....	.....
Prize fighting—aiding and abetting	4	3	1	.....	.....	.....	.....
Profanity	11	10	.....	1	.....	.....	.....
Property—offenses against—classified as:							
destroying	16	6	4	4	2	.....	.....
destroying maliciously	97	64	9	4	7	10	3
injuring maliciously	71	46	12	7	1	.....	5
purchasing stolen	2	2	.....	.....	.....	.....	.....
receiving stolen	94	56	12	11	4	7	4
Property—chattel mortgaged:							
concealing	5	1	.....	.....	1	3	.....
disposing of	15	7	3	1	2	1	1
disposing of fraudulently	3	1	.....	.....	1	.....	1
removing of	16	7	6	1	.....	2	.....
removing of—fraudulently	6	.....	.....	1	.....	1	4
Property—contract—held on contract of sale:							
disposing of—fraudulently	15	5	.....	2	1	5	2
Property—leased—disposing of	2	1	.....	1	.....	.....	.....
Property—personal:							
destroying maliciously	47	38	2	.....	2	4	1
injuring maliciously	24	13	4	5	1	.....	1
Property—real:							
destroying maliciously	4	2	.....	.....	1	1	.....
injuring	4	3	1	.....	.....	.....	.....
injuring dwelling or building	14	11	3	.....	.....	.....	.....
injuring maliciously	46	23	6	2	.....	3	12

SCHEDULE "M."—Continued.

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
Property—real—*Continued*:							
injuring maliciously fruit trees and vines	2	2					
wilful injury of tombs	1				1		
Prostitution—classified as:							
carnal knowledge of female under 16 years of age	2	2					
keeping house of ill-fame—common prostitution	438	399	17	6	5	7	4
letting house for	1	1					
harboring child in disorderly house	1	1					
soliciting to enter	2					2	
enticing female for purposes of	5	4				1	
unclassified	4	4					
Pure food law—violation of—classified as:							
diseased meat—selling	1				1		
milk, selling adulterated	26	22	2		1	1	
unclassified	52	46	2	1	2	1	
R.							
Railroad law—violation of—unclassified:							
boarding a moving train	33	33					
entering freight car to obtain carriage	33	33					
breaking and entering freight car	5	2	1		1		1
Railroad trespass:							
gates—interfering with	3	2	1				
attempt to wreck train, putting obstruction on track	5	1	1			3	
trains—jumping on—stealing ride on, etc	27	27					
trains—exciting disturbance on	1	1					
trains—throwing missiles at	3	3					
Rape	83	36	9		13	18	7
assaulting with intent to commit rape	35	14	1	3	7	9	1
Religious meeting—disturbing	23	23					
Robbery—classified as:							
from person	1	1					
highway robbery	5	5					
armed	13	3	1		8	1	
not armed	10	2	1		1	6	
assault with intent to rob	6	3			1	2	
unclassified	34	15	3		11	5	
S.							
School law—violation of—classified as:							
not sending children to school	86	46	1	3	1	2	33
unclassified	154	118	7	3	19	3	4
Search warrant	20	6	10				4
Seduction	9	1		1	2	3	2
Shooting stock—malicious	1	1					
Slander	219	114	37	19	20	9	20
Sodomy	5	3			1	1	
attempt to commit	1	1					
Sunday law—violation of—classified as:							
playing base ball on Sunday	4		2		2		
keeping place of business open on Sunday	19	11	6				2
hunting	4	4					
unclassified	3	2			1		
T.							
Tax law—violation of—classified as:							
making false statement as to taxable property	1		1				
Timber—unlawful possession of	2		1			1	
Threats—malicious—to do bodily harm—extort money, etc	100	38	13	11	8	10	20

SCHEDULE "M."—Concluded.

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
Trespass—classified as:							
on State lands	4	3	1	.....	.....	.....	.....
cutting and removing timber	2	1	1	.....	.....	.....	.....
hunting on public ground without permission	5	5	.....	.....	.....	.....	.....
wilful trespass	22	11	5	1	.....	4	1
unclassified	17	11	1	3	1	1	.....
V.							
Veterinary surgeon law—violation of	5	2	.....	1	2	.....	.....
Totals	28,396	23,354	1,432	859	930	834	987

SCHEDULE "N."

Recapitulation of the semi-annual reports of the Prosecuting Attorneys of the official business of their respective counties, during the fiscal year ending June 30, 1907.

Counties.	Number prosecuted.			Number convicted.			Number acquitted.			Number dismissed on payment of costs.			Number nolle prossed.			Number discharged on examination.			Number settled, etc.		
	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.
Alcona	4	1	5	2	.....	2	.....	.....	.....	1	.....	1	1	.....	1	.....	1	1	.....	.....	.....
Alger	34	46	80	32	34	66	1	3	4	1	3	4	.....	1	1	.....	5	5	.....	.....	.....
Allegan	212	236	448	200	216	416	3	8	11	2	.....	2	1	1	4	.....	3	3	6	6	12
Alpena	49	44	93	34	37	71	9	6	15	2	.....	2	2	.....	2	2	1	3	.....	.....	.....
Antrim	31	36	67	30	32	62	.....	1	1	.....	.....	.....	1	1	2	.....	.....	.....	.....	2	2
Arenac	15	18	33	11	15	26	.....	1	1	.....	.....	.....	.....	1	1	2	1	3	2	.....	2
Baraga	56	74	130	53	70	123	2	.....	2	.....	.....	.....	1	4	5	.....	.....	.....	.....	.....	.....
Barry	73	162	235	52	152	204	.....	.....	.....	4	4	8	11	6	17	4	.....	4	2	.....	2
Bay	558	667	1,225	465	544	1,009	31	74	105	18	11	29	8	12	20	36	26	62	.....	.....	.....
*Benzie	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Berrien	317	235	552	240	182	422	7	5	12	2	4	6	37	11	48	22	24	46	9	9	18
Branch	40	46	86	37	38	75	2	3	5	1	.....	1	.....	.....	.....	.....	5	5	.....	.....	.....
Calhoun	180	258	438	99	196	295	4	12	16	2	13	15	4	2	6	68	32	100	3	3	6
Cass	132	85	217	85	73	158	10	2	12	10	.....	10	26	1	27	.....	8	8	1	1	2
Charlevoix	10	33	43	8	25	33	.....	1	1	2	1	3	.....	.....	.....	.....	6	6	.....	.....	.....
Cheboygan	74	46	120	57	33	90	3	4	7	2	2	4	11	5	16	1	1	2	.....	1	1
Chippewa	98	58	156	52	40	92	7	1	8	9	4	13	12	11	23	12	1	13	6	1	7
Clare	18	12	30	13	9	22	1	3	4	.....	.....	.....	1	.....	1	2	.....	2	1	.....	1
Clinton	55	88	143	54	85	139	.....	1	1	.....	.....	.....	.....	.....	.....	.....	1	1	1	1	2
Crawford	40	51	91	35	43	78	3	7	10	.....	.....	.....	.....	1	1	2	.....	2	.....	.....	.....
Delta	68	70	138	52	51	103	6	6	12	3	5	8	3	8	11	4	.....	4	.....	.....	.....
Dickinson	157	171	328	101	133	234	31	20	51	24	1	25	.....	15	15	.....	2	2	1	.....	1
Eaton	257	285	542	233	261	494	2	5	7	3	.....	3	15	19	34	.....	.....	.....	4	.....	4
Emmet	62	64	126	59	56	115	3	3	6	.....	.....	.....	.....	2	2	.....	.....	.....	.....	3	3
Genesee	212	248	460	174	210	384	2	1	3	5	7	12	1	1	2	29	29	58	1	.....	1
Gladwin	12	15	27	5	4	9	1	2	3	.....	5	5	4	2	6	2	2	4	.....	.....	.....
Gogebic	227	203	430	182	184	366	13	7	20	.....	.....	.....	30	12	42	.....	.....	.....	2	.....	2
Grand Traverse	40	41	81	32	36	78	4	1	5	.....	.....	.....	1	.....	1	.....	.....	.....	3	4	7
Gratiot	123	65	188	78	52	130	5	4	9	11	.....	11	19	8	27	10	1	11	.....	.....	.....
Hillsdale	77	55	132	72	45	117	1	.....	1	4	5	9	.....	3	3	.....	2	2	.....	.....	.....

Houghton	553	337	890	413	250	663	30	20	50	52	39	91	1	6	7	9	8	17	48	14	62
Huron	41	18	59	39	18	57										2		2			
Ingham	457	391	848	383	341	724		6	6	10	3	13	61	38	99				3	3	6
Ionia	60	84	144	49	75	124	1	1	2		5	5	10		10		1	1		2	2
Iosco	11	22	33	6	17	23	2	1	3		1	1	2		2		3	3	1		1
Iron	119	148	267	115	145	260	4	2	6								1	1			
Isabella	77	61	138	49	50	99	5		5	6	1	7	8	5	13				9	5	14
Jackson	405	501	906	348	412	760	4	2	6	13	15	28	3	3	6	26	65	91	11	4	15
Kalamazoo	513	127	640	496	124	620	2		2	2		2	9		9	3		3	1	3	4
Kalkaska	12	11	23	7	8	15	3		3				2		2					3	3
Kent	596	419	1,015	540	307	847	34	36	70		25	25	16	42	58		7	7	6	2	8
Keweenaw	11	5	16	11	4	15														1	1
Lake	12	5	17	3	5	8	3		3	3		3				3		3			
Lapeer	68	62	130	59	50	118	1		1		1	1	5	2	7	3		3			
Leelanau	9	14	23	8	11	19	1	2	3					1	1						
Lenawee	240	229	469	223	211	434	2		2	1		1	6	1	7	4	17	21	4		4
Livingston	25	47	72	18	45	63	1	1	2				4		4	1	1	2	1		1
Luce	18	19	37	17	13	30	1	1	2		1	1		4	4						
Mackinac	8	22	30	6	17	23		2	2					3	3	2		2			
Macomb	43	75	118	37	59	96	2	3	5	1	3	4	3	6	9		4	4			
Manistee	129	134	263	116	106	222	2	6	8	9	1	10	1	8	9	1	5	6		8	8
Marquette	392	350	742	375	323	698		2	2	5	16	21		8	8	10	1	11	2		2
Mason	68	115	183	61	106	167	3	8	11	1		1	1	1	2	2		2			
Mecosta	47	35	82	41	29	70	2	4	6	1		1	3	2	5						
Menominee	79	40	119	62	24	86	15	12	27	2	1	3		3	3						
Midland	14	15	29	11	10	21	1		1		2	2							2	3	5
Missaukee	13	22	41	13	21	34	3	1	4				2		2	1		1			
Monroe	93	71	164	93	66	159		3	3					2	2						
Montcalm	70	66	136	42	44	86	1		1	1	4	5	13	11	24	12	5	17	1	2	3
Montmorency	9	8	17	8	8	16							1		1						
Muskegon	97	72	169	69	66	135	4		4	7	2	9	9	3	12	1	1	2	7		7
Newaygo	13	5	18	13	2	15		1	1		1	1		1	1						
Oakland	236	262	498	224	251	475	1		1		4	4	6	4	10	5	1	6		2	2
Oceana	3	13	16	3	7	10		2	2					2	2		2	2			
Ogemaw	30	24	54	28	22	50	2	2	4												
Ontonagon	43	7	50	42	3	45		2	2				1	2	3						
Osceola	62	60	122	56	50	106	5	6	11	1	2	3		2	2						
Oscoda	2	3	5	1	2	3	1		1					1	1						
Otsego	44	84	128	40	72	112	2	3	5					4	4		5	5	2		2
Ottawa	276	368	644	257	325	582	10	1	11		23	23	6	15	21	3		3		4	4
Presque Isle	19	25	44	12	15	27		3	3		2	2	1	2	3	4	2	6	2	1	3
Roscommon	34	28	62	29	24	53	1	2	3					1	1				4	1	5
Saginaw	290	230	520	211	192	403	5	4	9	23	15	38	34	18	52	10	1	11	7		7
St. Clair	358	274	632	321	249	570	5	5	10	2	3	5	25	16	41				5	1	6
St. Joseph	82	105	187	67	87	154	1	2	3	7	5	12	3	2	5	4	3	7		6	6

SCHEDULE "N."—Concluded.

Counties.	Number prosecuted.			Number convicted.			Number acquitted.			Number dismissed on payment of costs.			Number nolle prossed.			Number discharged on examination.			Number settled, etc.		
	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.	First half.	Second half.	Total for year.
Sanilac	11	13	24	7	9	16	.....	1	1	.....	.....	.....	3	1	4	.....	1	1	1	1	2
Schoolcraft	27	26	53	20	19	39	1	1	2	.....	3	3	4	3	7	1	.....	1	1	.....	1
Shiawassee	163	193	356	153	180	333	2	1	3	.....	4	4	.....	1	1	8	7	15	.....	.....	.....
Tuscola	41	31	72	39	28	67	.....	2	2	.....	.....	.....	2	1	3	.....	.....	.....	.....	.....	.....
Van Buren	218	175	393	180	145	325	6	9	15	.....	2	2	1	5	6	16	11	27	15	3	18
Washtenaw	184	220	404	164	210	374	.....	.....	.....	1	2	3	2	4	6	6	4	10	11	.....	11
Wayne	4,238	5,305	9,543	3,251	4,156	7,407	318	450	768	69	281	350	59	67	126	111	83	194	430	268	698
Wexford	69	38	107	60	33	93	3	.....	3	1	3	4	2	2	4	.....	.....	.....	3	.....	3
Totals	13,969	14,427	28,396	11,443	11,911	23,354	641	791	1,432	324	535	859	498	432	930	444	390	834	619	368	987

*Reports from this county not received.

SCHEDULE "O."

List of Prosecuting Attorneys by counties, with name of county seat and address of prosecutor.

Counties.	County seat.	Prosecuting attorneys.	Postoffice.
Alcona	Harrisville	Osmond H. Smith	Harrisville.
Alger	Munising	William J. O'Brien	Grand Marais.
Allegan	Allegan	Clare E. Hoffman	Allegan.
Alpena	Alpena	Frank D. Scott	Alpena.
Antrim	Bellaire	Clark E. Densmore	Bellaire.
Arenac	Standish	William C. Cook	Omer.
Baraga	L'Anse	William L. Mason	L'Anse.
Barry	Hastings	Lee H. Pryor	Hastings.
Bay	Bay City	Charles W. Hitchcock	Bay City.
Benzie	Frankfort	Dwight G. F. Warner	Frankfort.
Berrien	St. Joseph	Charles E. White	Niles.
Branch	Coldwater	W. Glenn Cowell	Coldwater.
Calhoun	Marshall	Louis E. Stewart	Battle Creek.
Cass	Cassopolis	Thomas J. Bresnahan	Dowagiac.
Charlevoix	Charlevoix	Elisha N. Clink	East Jordan.
Cheboygan	Cheboygan	Homer H. Quay	Cheboygan.
Chippewa	Sault Ste. Marie	George B. Holden	Sault Ste. Marie.
Clare	Harrison	John Quinn	Harrison.
Clinton	St. Johns	Dean W. Kelley	St. Johns.
Crawford	Grayling	Oscar Palmer	Grayling.
Delta	Escanaba	Judd Yelland	Escanaba.
Dickinson	Iron Mountain	August C. Cook	Iron Mountain.
Eaton	Charlotte	Elmer N. Peters	Charlotte.
Emmet	Petoskey	Wade B. Smith	Petoskey.
Genesee	Flint	Horace P. Martin	Flint.
Gladwin	Gladwin	Thomas G. Campbell	Gladwin.
Gogebic	Bessemer	Charles M. Humphrey	Ironwood.
Grand Traverse	Traverse City	Fred H. Pratt	Traverse City.
Gratiot	Ithaca	John M. Everden	Ithaca.
Hillsdale	Hillsdale	Clayton A. Powell	Hillsdale.
Houghton	Houghton	Angus W. Kerr	Calumet.
Huron	Bad Axe	Paul Woodworth	Bad Axe.
Ingham	Mason	Walter S. Foster	Lansing.
Ionia	Ionia	Dwight G. Sheldon	Ionia.
Iosco	Tawas City	Edwin Rawden	East Tawas.
Iron	Crystal Falls	Charles H. Watson	Crystal Falls.
Isabella	Mt. Pleasant	Charles T. Russell	Mt. Pleasant.
Jackson	Jackson	Benjamin Williams	Jackson.
Kalamazoo	Kalamazoo	Claude S. Carney	Kalamazoo.
Kalkaska	Kalkaska	Ernest C. Smith	Kalkaska.
Kent	Grand Rapids	John S. McDonald	Grand Rapids.
Keweenaw	Eagle River	Albert E. Petermann	Calumet.
Lake	Baldwin	William H. Wilson	Baldwin.
Lapeer	Lapeer	Benjamin F. Reed	Lapeer.
Leelanau	Leland	Clinton L. Dayton	Leland.
Lenawee	Adrian	Burton L. Hart	Adrian.
Livingston	Howell	James A. Greene	Howell.
Luce	Newberry	Louis H. Fead	Newberry.
Mackinac	St. Ignace	James J. Brown	St. Ignace.
Macomb	Mt Clemens	Warren S. Stone	Richmond.
Manistee	Manistee	Elmer J. Alway	Manistee.
Marquette	Marquette	Frank A. Bell	Negaunee.
Mason	Ludington	App M. Smith	Ludington.
Mecosta	Big Rapids	Joseph Barton	Big Rapids.
Menominee	Menominee	Michael J. Doyle	Menominee.

SCHEDULE "O."—Concluded.

Counties.	County seat.	Prosecuting attorneys.	Postoffice.
Midland	Midland	Robert H. Lane	Midland.
Missaukee	Lake City	Charles L. Goll	Lake City.
Monroe	Monroe	John J. Kiley	Monroe.
Montcalm	Stanton	Earl F. Phelps	Howard City.
Montmorency	Atlanta	Harry L. Stearns	Lewiston.
Muskegon	Muskegon	Dan T. Chamberlain	Muskegon.
Newaygo	Newaygo	George Luton	Newaygo.
Oakland	Pontaic	Frank L. Covert	Pontiac.
Oceana	Hart	Rufus F. Skeels	Hart.
Ogemaw	West Branch	Evender M. Harris	West Branch.
Ontonagon	Ontonagon	William R. Adams	Ontonagon.
Osceola	Hersey	Judson E. Richardson	Evart.
Oscoda	Mio	Ward B. Connine	Mio.
Otsego	Gaylord	Albert M. Hilton	Gaylord.
Ottawa	Grand Haven	Corie C. Coburn	Grand Haven.
Presque Isle	Rogers	Arthur E. Devine	Onaway.
Roscommon	Roscommon	Charles L. De Waele	Roscommon.
Saginaw	Saginaw	Miles J. Purcell	Saginaw.
Sanilac	Sandusky	Fred A. Farr	Sandusky.
Schoolcraft	Manistique	Virgil I. Hixson	Manistique.
Shiawassee	Corunna	Byron P. Hicks	Durand.
St. Clair	Port Huron	Alexander Moore	Port Huron.
St. Joseph	Centerville	Theodore T. Jacobs	Sturgis.
Tuscola	Caro	James D. Brooker	Caro.
Van Buren	Paw Paw	Russell M. Chase	Paw Paw.
Washtenaw	Ann Arbor	Andrew J. Sawyer, Jr	Ann Arbor.
Wayne	Detroit	George F. Robison	Detroit.
Wexford	Cadillac	William H. Yearnd	Cadillac.

INDEX.

TABLE OF CASES.

NAMES OF OPINIONS.

SUBJECTS OF OPINIONS AND GENERAL INDEX.

SCHEDULE "P."

TABLE OF CASES.

A.

B.

D.

I.

J.

K.

L.

M.

N.

O.

Q.

R.

S.

SCHEDULE "Q."

INDEX OF NAMES OF OPINIONS, 1906 AND 1907.

SCHEDULE "R."

GENERAL INDEX TO REPORT, SUBJECTS OF OPINIONS, ETC.

C.

D.

Q.

R.

S.

T.